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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: June 4, at 9:00 a.m.
WHERE: Office of the Federal Register.
First Floor Conference Room.
1100 L Street NW., Washington, DC.
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DIRECTIONS: North on 11th Street from Metro Center to corner of 11th and L Streets

CHICAGO, IL

WHEN: June 16; 9:00 a.m.
WHERE: Room 328
Ralph H. Metcalfe Federal Building
77 W. Jackson
Chicago, IL
RESERVATIONS: Call the Federal Information Center, 1–800–366–2998

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Presidential Documents

Title 3—

The President

Proclamation 6441 of May 20, 1992

National Foster Care Month, 1992

By the President of the United States of America

A Proclamation

As the first and most fundamental of all social institutions and as the primary source of love, identity, and support that every individual needs and deserves, the family is the very foundation of our communities and Nation. The future of the United States depends on the stability and well-being of its families, and we are deeply indebted to those Americans who work to assist them—particularly in times of need. This month, we express special gratitude toward the providers of foster care.

Foster families are called on most frequently to supply guardianship and guidance to children whose biological parents are unable to provide an acceptable level of care for them. The Department of Health and Human Services reports that approximately 407,000 children in the United States currently live in foster care. The more than 250,000 licensed foster families who have generously accepted these children for temporary or perhaps permanent alternative placement not only meet their basic needs for food, clothing, and shelter but also offer them affection, encouragement, moral direction, and discipline.

Because foster parents shape young hearts and minds in addition to ensuring the physical well-being of children in their care, the support and training that these adults receive are highly important. Indeed, foster parents merit recognition as vital members of a team that includes social service providers, attorneys and law enforcement officials, members of the clergy, and others who are dedicated to assisting children and families. Together with fellow members of our Nation's foster care system, foster parents play an essential role in efforts to strengthen and reunite troubled families or, when appropriate, in efforts to ease a child's transition to a permanent, loving adoptive home—perhaps even the foster family's own.

In recognition of the contributions that foster families make to the well-being of children and the Nation, the Congress, by House Joint Resolution 388, has designated the month of May 1992 as "National Foster Care Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the month of May 1992 as National Foster Care Month. I call on all Americans to observe this month with appropriate programs and activities in honor of those generous individuals who share their lives with foster children.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of May, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.

George Bush

[FR Doc. 92-12279
Filed 5-21-92; 10:11 am]
Billing code 3195-01-M

Rules and Regulations

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MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board is amending part 1201 by revising Appendix II to delete the FTS facsimile numbers of its regional offices. This action is being taken to reflect the fact that the commercial and FTS facsimile numbers of MSPB regional offices are now the same as a result of the conversion to 10-digit dialing in the FTS 2000 telephone system. For ease of reference, the Board is republishing Appendix II to part 1201 in its entirety.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

EFFECTIVE DATE: May 22, 1992.

FOR FURTHER INFORMATION CONTACT: Duward Sumner, (202) 653–8892.

SUPPLEMENTARY INFORMATION:

List of Subjects in 5 CFR Part 1201

Administrative practive and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1201 as follows:

PART 1201—[AMENDED]

1. The authority citation for part 1201 continues to read:

Authority: 5 U.S.C. 1204 and 7701 unless otherwise noted.

2. Appendix II to part 1201 is revised to read:

Appendix II to Part 1201—Appropriate Regional Office for Filling Appeals

All submissions shall be addressed to the Regional Director, Merit Systems Protection Board, at the addresses listed below, according to geographic region of the employing agency or as required by § 1201.4(d) of this part. Address of Appropriate Regional Office and Area Served:

1. Atlanta Regional Office, 401 W. Peachtree Street NW., 10th Floor, Atlanta, Georgia 30308, Facsimile No.: (404) 730–2767. (Alabama, Florida, Georgia, Mississippi, North Carolina, and South Carolina.)
2. Boston Regional Office, 10 Causeway Street, room 1078, Boston, Massachusetts 02222–1042, Facsimile No.: (617) 565–5903. (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.)
3. Chicago Regional Office, 230 South Dearborn Street, 31st Floor, Chicago, Illinois 60604–1669, Facsimile No.: (312) 886–4231. (Illinois [all locations north of Springfield], Indiana, Michigan, Minnesota, Ohio, and Wisconsin.)
4. Dallas Regional Office, 1100 Commerce Street, room 6F20, Dallas, Texas 75242–9979, Facsimile No.: (214) 767–0102. (Arkansas, Louisiana, Oklahoma, and Texas.)
5. Denver Regional Office, 730 Simms Street, suite 301, P.O. Box 25025, Denver, Colorado 80225–0025, Facsimile No.: (303) 231–5205. (Arizona, Colorado, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Utah, and Wyoming.)
6. New York Regional Office, 26 Federal Plaza, room 3137–A, New York, New York 10278–0022, Facsimile No.: (212) 264–1417. (New York, Puerto Rico, Virgin Islands, and the following counties in New Jersey: Bergen, Essex, Hudson, Hunterdon, Morris, Passaic, Somerset, Sussex, Union, and Warren.)
7. Philadelphia Regional Office, U.S. Customhouse, room 501, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106–2904, Facsimile No.: (215) 597–3456. (Delaware, Pennsylvania, Virginia—except cities and counties served by Washington Regional Office, West Virginia, and the following counties in New Jersey: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Middlesex, Monmouth, Ocean, and Salem.)
8. St. Louis Regional Office, 911 Washington Avenue, St. Louis, Missouri 63101–1203, Facsimile No.: (314) 425–4294. (Illinois [Springfield and all locations south], Iowa, Kentucky, Missouri, and Tennessee.)
9. San Francisco Regional Office, 525 Market Street, room 2800, San Francisco, California 94105, Facsimile No.: (415) 744–3194. (California.)
10. Seattle Regional Office, 915 Second Avenue, suite 1840, Seattle, Washington 98174–1001, Facsimile No.: (206) 553–6484. (Alaska, Hawaii, Idaho, Oregon, Washington, and Pacific overseas areas.)
11. Washington Regional Office, 5203 Leesburg Pike, suite 1109, Falls Church, Virginia 22041–3473, Facsimile No.: (703) 756–7112. (Washington, DC, Maryland, all overseas areas not otherwise covered, and the following cities and counties in Virginia: Alexandria, Falls Church, Arlington, Fairfax City, Fairfax County, Loudoun, and Prince William.)

Dated: May 19, 1992.

Robert E. Taylor,
Clerk of the Board.

[FR Doc. 92–12027 Filed 5–21–92; 8:45 am]
BILLING CODE 7400–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 91–195]

Importation of Ostriches and Other Ratites

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are making additional quarantine space available for ostriches and other ratites imported into the United States. This final rule allows shipments of up to 100 ostriches and other ratites to be imported through the port of Miami, Florida, for quarantine at the Miami Animal Import Center (MAIC) in Miami, Florida. We are taking this action in response to a heavier than expected demand for quarantine space for ostriches since August 12, 1991, when a final rule became effective allowing certain ratites to be imported into the United States for the first time in 2 years. Opening the MAIC for ratites will reduce the waiting time for quarantine space for these birds. Additionally, it could reduce the costs and shipping time involved in importing rheas from South America.

EFFECTIVE DATE: May 18, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. Keith Hand, Senior Staff Veterinarian, Import-Export Animals Staff, VS, APHIS, USDA, room 768, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8590.

SUPPLEMENTARY INFORMATION:

Background

In a final rule published in the **Federal Register** on July 12, 1991 (56 FR 31856–

31868, Docket No. 90–147), we amended the regulations in 9 CFR part 92 to allow certain flightless birds known as ratites (cassowaries, emus, kiwis, ostriches, and rheas), and hatching eggs of ratites, to be imported into the United States. The rule became effective on August 12, 1991. Except with respect to certain ostrich chicks, the importation of ratites had been prohibited since August 15, 1989, to prevent the introduction and dissemination of ectoparasites that could spread heartwater and East Coast fever, exotic and highly morbid diseases of livestock.

The final rule allowed the importation of ratites to resume under conditions intended to prevent the introduction of communicable diseases that could be transmitted to livestock and poultry by ectoparasites and other agents. The final rule required, among other things, that ostriches imported into the United States be quarantined upon arrival in the United States at the Animal and Plant Health Inspection Service (APHIS) quarantine facility in Newburgh, NY, the New York Animal Import Center (NYAIC); and that ratites other than ostriches be quarantined either at the NYAIC or at the APHIS quarantine facility in Honolulu, HI.

In just the first two weeks after the final rule became effective, importers requested considerably more quarantine space for ostriches than was available at the NYAIC. To better accommodate importers, we proposed, in a document published in the **Federal Register** on December 5, 1991 (56 FR 63694–63696, Docket No. 91–162), to allow shipments of up to 100 ostriches and other ratites to be imported through the port of Miami, Florida, for quarantine at the Miami Animal Import Center (MAIC) in Miami, Florida.

Comments on the proposed rule were required to be received by APHIS on or before December 20, 1991. We received three comments by that date. These were from a private individual who supported the proposed rule, and from representatives of two organizations of ratite owners who opposed the proposed rule. The comments in opposition are discussed below.

Comments

One commenter objected to the proposed rule on the grounds that (1) opening additional facilities to the importation of ostriches could cause a flooded market and a decrease in the value of domestic stock, and (2) imported ratites present a risk of transmitting disease to domestic flocks.

As stated under "Executive Order 12291 and the Regulatory Flexibility Act" in the proposed rule and in this final rule, we do not expect that making additional quarantine space available for ratites will lead to an increase in the number of ratites imported into the United States. The availability for international trade of ostrich chicks that meet the requirements of our regulations for importation into the United States is limited, and will not be increased as a result of this rule. Additionally, the regulations that became effective on August 12, 1991, allow the importation of ratite hatching eggs, and, as more chicks are hatched domestically, the demand for imported ostrich chicks will likely decline. The current press of applications to import ratites appears to be an initial reaction to the removal of import prohibitions, and we anticipate that applications, or the number of birds requested per application, may decline over the next 6 months.

Further, as stated in the final rule of July 12, 1991, it appears that the August 1989 ban on the importation of certain ratites may have resulted directly in an increase in the average retail price of ostrich chicks and adult breeding pairs. Information given by ratite producer organizations indicates that the price for 30- to 90-day-old ostrich chicks rose from approximately $1000–$2500, to approximately $1500–$5000; while the price of adult breeding pairs increased by about $5000–$10,000, to approximately $35,000–$50,000 a pair. The final rule of July 12, 1991, was expected to cause the average retail price of ostrich chicks to decrease to the prices they were bring before August 1989. The final rule was not expected to have an immediate effect on the price of domestic breeding ostriches, however, because adult ostriches are not permitted entry, and it takes about 3½ years for a chick to reach breeding age. The addition of the MAIC as a quarantine facility for ratites is not expected to result in any further impact on the domestic ratite industry.

With respect to the disease risk presented by imported ratites, we continue to stand by the determination expressed in the final rule of July 12, 1991: That ratites, including those hatched during quarantine, do not present a significant risk of transmitting communicable diseases, or of introducing ectoparasites that could transmit communicable diseases, if they have qualified for a permit and have met all of the requirements for health certification and release from quarantine in the United States.

Therefore, we are making no change in response to these comments.

The other commenter objected to the proposed rule on the grounds that it does not require (1) imported ratites and chicks hatched from imported ratite eggs to be permanently and individually identified, or (2) persons buying or selling an imported ostrich to maintain a record of the purchase or sale for at least 3 years. The commenter maintained that these requirements are necessary to: (1) Allow rapid traceback in the event an exotic ectoparasite is found or an exotic disease is detected, and (2) help ensure compliance with the Environmental Protection Agency (EPA) prohibition on the slaughter of treated birds for food purposes.

Regarding the request for permanent identification of ratites, it has never been the policy of the U.S. Department of Agriculture (USDA) to permanently identify any imported birds. USDA uses legbands as a temporary type of identification for imported pet birds because we have found no satisfactory type of permanent identification. In view of the rapid growth of ratites, applying legbands to imported ratite chicks would be inhumane. Tattooing and branding of young birds has proven to be unreliable and difficult to read on adult birds. We will evaluate any suggested alternative methods of permanent identification.

We believe the suggested requirement for recordkeeping of sales and purchases of all imported ratites for 3 years to be costly and unnecessary. Ratites, including eggs for hatching in the United States, must be accompanied to the United States by both a permit and a health certificate. These documents certify that various requirements concerning the health of the birds have been met. The documents also provide information on the origin of the ratites that would allow epidemiological investigation of the flock of origin if a serious health problem is detected during the quarantine that is required upon arrival of the birds in the United States. Our experience has shown that this quarantine, during which testing and observation of imported birds by a USDA veterinarian is accomplished, is a safe and adequate last step for qualifying ratites for unrestricted release. We do not believe other steps are necessary at this time because the chicks will not be released from quarantine unless they are determined to be free of evidence of communicable disease. Release will be made on an "all-in, all-out" basis.

With respect to the commenter's concern about compliance with the EPA prohibition on the slaughter of treated ratites for food purposes, it is the owner's responsibility to ensure that any animal treated with a pesticide be

handled in compliance with EPA regulations. We also believe, as a practical matter, that the cost of imported ratites precludes slaughter as a primary objective, especially when there are no USDA approved slaughtering establishments for ratites in the United States at this time.

Therefore, based on the rationale in the proposed rule and in our response to the comments, we are adopting the proposed rule with two nonsubstantive changes, which we made for clarity.

Effective Date

Robert Melland, the Administrator of the Animal and Plant Health Inspection Service, has determined, in accordance with 5 U.S.C. 553(d), that there is good cause for making this rule effective less than 30 days after publication in the **Federal Register**. Prompt implementation of this final rule will facilitate the importation of ratites by providing additional quarantine space. The opening of additional quarantine space for ostriches and other ratites at the MAIC will signficantly reduce the waiting time for quarantine space for these birds and make better use of space at the NYAIC. Prompt action on this rulemaking also could reduce the costs and shipping time involved in importing rheas from South America. Therefore, we are making this rule effective upon signature.

Executive Order 12778

This final rule concerns quarantine facilities operated by the Department for imported animals and birds. All State and local laws that are in conflict with this rule are preempted. No retroactive effect is to be given to this final rule. This rule does not require administrative proceedings before parties may file suit in court.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Since August 12, 1991, when a final rule became effective allowing certain ratites to be imported into the United States for the first time in 2 years, importers have requested more quarantine space for ratites than is available at the NYAIC in Newburgh, New York, which is currently the only quarantine facility handling ostriches. It was anticipated that approximately 2500 chicks could be imported through the NYAIC each year; we have already received requests for space for slightly more than 3000. A higher than normal volume of other animals coming through the facility at this time has prevented us from making additional space available at the NYAIC.

Making the MAIC available for shipments of 100 ratites or fewer will allow us to accommodate multiple shipments; thereby reducing the waiting time for quarantine space for ostriches and other ratites. This action will facilitate the importation of small lots of ratites, as well as ensure better use of space at the NYAIC, where one large building that cannot be subdivided is used for ratites, whether the shipment is 10 birds or 250.

Of the 29 applications for permits to import ratites that APHIS had received at the NYAIC by October 1, all but the first six applications and two others were for shipments of 100 or fewer ratites. The majority of requests were for 50 ostrich chicks. We believe that these applications represent most, if not all, of the persons currently interested in importing ratites.

Allowing ratites to be quarantined at the MAIC also could reduce the costs and shipping time involved in importing rheas from South America.

We do not expect that making additional quarantine space available for ratites would lead to an increase in the number of ratites imported into the United States. The availability for international trade of ostrich chicks that meet the requirements of our regulations for importation into the United States is limited, and would not be increased as a result of this rule. Additionally, the regulations that became effective on August 12, 1991, allow the importation of ratite hatching eggs, and, as more chicks are hatched domestically, the demand for imported ostrich chicks will likely decline. The current press of applications to import ratites appears to be an initial reaction to the removal of import prohibitions, and we anticipate that applications, or the number of birds requested per application, may decline over the next 6 months.

We had previously anticipated that there would be domestic price decreases for ratites resulting from the removal of import prohibitions. The addition of the MAIC as a quarantine facility for ratites is not expected to result in any further impact on the domestic ratite industry.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 92

Animal disease, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

Accordingly, 9 CFR part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f and 135; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 92.103, a new paragraph (a)(4) is added and footnote 7 is revised to read as follows:

§ 92.103 Import permits for birds;[7] and reservation fees for space at quarantine facilities maintained by APHIS.

(a) * * *

(4) Permit applications for ratites.

(i) If quarantine space for ratites is desired at either the New York Animal Import Center or the Miami Animal Import Center, permit applications must be submitted to the New York Animal Import Center, USDA, APHIS, Veterinary Services, 200 Drury Lane, Rock Tavern, NY, 12575, or to the port veterinarian in charge of the New York Animal Import Center.

(ii) If quarantine space for ratites other than ostriches is desired at the Hawaii Animal Import Center, permit applications must be submitted to the Hawaii Animal Import Center, USDA,

[7] For other permit requirements for birds, the regulations issued by the U.S. Department of the Interior (50 CFR parts 14 and 17) should be consulted.

APHIS, Veterinary Services, P.O. Box 50001, Honolulu, HI, 96850, or to the port veterinarian in charge of the Hawaii Animal Import Center.

(iii) Quarantine space for ratites will be offered in the order that permit applications are or have been received, beginning with those permit applications received on August 12, 1991. Reservations for quarantine space at the Miami Animal Import Center will be limited to a maximum of 100 ratites per permit application. There will be a single waiting list for quarantine space at the Miami Animal Import Center and the New York Animal Import Center. Importers who prefer one of these two facilities over the other may remain on the waiting list until space opens up at the facility of their choice. A separate waiting list will be maintained for space at the Hawaii Animal Import Center. Ostriches may not be quarantined at the Hawaii Animal Import Center.

* * * * *

3. In § 92.105, paragraphs (c)(1) and (c)(2) are revised to read as follows:

§ 92.105 Inspection at the port of entry.

* * * * *

(c) * * *

(1) Ostriches: New York, NY; Stewart Airport, Newburgh, NY; and Miami, FL;

(2) Ratites other than ostriches: New York, NY; Stewart Airport, Newburgh, NY; Miami, FL; and Honolulu, HI.

4. In § 92.106, the second sentence in paragraph (b)(1) is revised to read as follows:

§ 92.106 Quarantine requirements.

* * * * *

(b) * * *

(1) * * * Quarantine shall be on an "all-in, all-out" basis, as described in paragraph (c)(3)(ii)(A) of this section, at the New York Animal Import Center at Newburgh, NY, when the port of entry is either New York, NY, or Stewart Airport, Newburgh, NY; the Hawaii Animal Import Center at Honolulu, HI, when the port of entry is Honolulu, HI; or at the Miami Animal Import Center, Miami, FL, when the port of entry is Miami, FL. * * *

* * * * *

Done in Washington, DC, this 18th day of May 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-12044 Filed 5-21-92; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-260-AD; Amendment 39-8243; AD 92-10-09]

Airworthiness Directives; British Aerospace Model BAe 125-800A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to British Aerospace Model BAe 125-800A series airplanes, that requires an eddy current inspection of the rudder pedal torque tubes, and replacement of any defective or cracked parts. This amendment is prompted by reports of longitudinal defects/cracks in rudder pedal torque tubes. The actions specified by this AD are intended to prevent failure of the rudder pedal torque tubes, which could lead to reduced controllability of the airplane.

DATES: Effective June 29, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 29, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to British Aerospace Model BAe 125-800A series airplanes was published in the Federal Register on January 22, 1992 (57 FR 2491). That action proposed to require an eddy current inspection of the rudder pedal torque tubes, and replacement of any defective or cracked parts.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 20 airplanes of U.S. registry will be affected by this AD, that it will take approximately 7 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,700.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES**."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AIRWORTHINESS DIRECTIVES]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-10-09. British Aerospace: Amendment 39-8243. Docket 91-NM-260-AD.

Applicability: British Aerospace Model BAe 125-800A series airplanes, having NA numbers as listed in British Aerospace Service Bulletin SB 27-155, dated August 16, 1991, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced controllability of the airplane, accomplish the following:

(a) Within 3 months after the effective date of this AD, inspect the rudder pedal torque tubes (four per airplane) for defects or cracks, using BAe High Frequency Eddy Current Inspection Technique No. 27-20-101, in accordance with British Aerospace Service Bulletin SB 27-155, dated August 16, 1991.

(b) If any defects or cracks are detected that exceed the limit specified in British Aerospace Service Bulletin SB 27-155, dated August 16, 1991, prior to further flight, replace them with serviceable components in accordance with the service bulletin.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspections and repairs shall be done in accordance with British Aerospace Service Bulletin SB 27-155, dated August 16, 1991. This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, D.C. 20041-0414. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the **Federal Register**, 1100 L Street NW., room 8401, Washington, DC.

(f) This amendment becomes effective on June 29, 1992.

Issued in Renton, Washington, on April 20, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-12003 Filed 5-21-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-69-AD; Amendment 39-8249; AD 92-10-14]

Airworthiness Directives; Lockheed Aeronautical Systems Company-Georgia Model 382 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Lockheed Model 382 series airplanes, that currently requires repetitive visual and eddy current inspections to detect fatigue cracking in the pressurized fuselage fairing support structure, and repair, if necessary. Fatigue cracking, if not detected and corrected, could degrade the structural integrity of the airframe and lead to decompression of the airplane. This amendment revises the currently required inspections, the repetitive inspection intervals, and the repair procedures. This amendment is prompted by structural improvement modifications which, if accomplished, would permit longer repetitive inspection intervals.

DATES: Effective June 29, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 29, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Lockheed Aeronautical Systems Company-Georgia, Attn: Commercial and Customer Support, Dept. 73-05, Zone 0199, 86 South Cobb Drive, Marietta, Georgia 30063. This information may be examined at the FAA, Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia; or at the Office of the **Federal Register**, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas B. Peters, Aerospace Engineer, Flight Test Branch, ACE-160A, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; telephone (404) 991-3915; fax (404) 991-3606.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 89-15-03, Amendment 39-6265 (54 FR 29535, July 13, 1989), which is applicable to certain Lockheed Model 382 series airplanes, was published in the **Federal Register** on October 23, 1991 (56 FR 54808). The action proposed to require an improved inspection procedure to detect fatigue cracking in the pressurized fuselage fairing support structure, a modified inspection interval, and repair/modification procedures.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

One commenter requests that the reinspection interval for airplanes previously inspected in accordance with AD 89-15-03, as required by paragraph (d) of the AD, be revised to match the intervals (3,600 hours) listed in Revision 1 to Lockheed Service Bulletin 382-53-50, dated December 13, 1991. The FAA does not concur. The intent of this AD is not to allow the immediate escalation of the reinspection interval, but rather to allow escalation only after an inspection is first done to the improved procedure. Subsequent inspections are then required at the extended interval.

The airplane manufacturer, Lockheed, requests that airplanes having serial numbers 5306 and subsequent be excluded from the applicability of the AD. Lockheed has incorporated improved fatigue life design changes into new production airplanes at these serial numbers; these design changes preclude the potential cracking problem addressed by the proposed AD. The FAA concurs. Since issuance of the Notice, the FAA has reviewed and approved Lockheed Service Bulletin 382-53-50, Revision 1, dated December 13, 1991, which revises the airplane effectivity listing to exclude those airplanes which have incorporated the improved fatigue life design changes. Accordingly, the FAA has revised the final rule to revise the applicability statement, and to reflect this latest revision to the service bulletin as the appropriate source for service information.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 87 Lockheed Model 382 series airplanes of the affected design in the worldwide fleet.

The FAA estimates that 25 airplanes of U.S. registry will be affected by this AD, that it will take approximately 66 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $90,750 for the initial inspections performed according to the improved procedure. Depending upon the inspection procedure used and the structural modifications installed, subsequent inspections could be performed less often than currently required; therefore, this action could reduce the economic burden on affected operators.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AIRWORTHINESS DIRECTIVES]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-6265 (54 FR 29535, July 13, 1989), and by adding a new airworthiness directive (AD), amendment 39-8249, to read as follows:

92-10-14. Lockheed Aeronautical Systems Company-Georgia: Amendment 39-8249. Docket 91-NM-69-AD. Supersedes AD 89-15-03, Amendment 39-6265.

Applicability: Model 382 series airplanes, serial numbers 3946 through 5305, inclusive, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking and subsequent decompression of the airplane, accomplish the following:

(a) For airplanes that had accumulated 6,300 hours time-in-service prior to July 31, 1989 (the effective date of AD 89-15-03, Amendment 39-6265), within the next 10 hours time-in-service after July 31, 1989, accomplish the following:

(1) Incorporate the following statement into the Limitations Section of the FAA-approved Airplane Flight Manual (AFM). This may be accomplished by including a copy of this AD in the AFM.

"Aircraft cabin operating pressure is limited to 10 inches of mercury."

(2) Temporarily reduce cabin operating pressure in accordance with paragraph (a)(1) of this AD.

(b) For all other airplanes, within 10 hours time-in-service after the effective date of this AD, or prior to the accumulation of 6,300 hours time-in-service, whichever occurs later, accomplish the following:

(1) Incorporate the following into the Limitations Section of the FAA-approved Airplane Flight Manual (AFM). This may be accomplished by including a copy of this AD in the AFM.

"Aircraft cabin operating pressure is limited to 10 inches of mercury."

(2) Temporarily reduce cabin operating pressure in accordance with paragraph (b)(1) of this AD.

(c) For airplanes that had accumulated 6,300 hours time-in-service prior to July 31, 1989 (the effective date of AD 89-15-03, Amendment 39-6265), and have not been inspected in accordance with AD 89-15-03: Within 45 days after the effective date of this AD, perform an inspection of the following areas of the pressurized fuselage fairing support (FS) structure according to the specified Work Card procedures of Standard Maintenance Publication (SMP) 515-A/C, as specified in Lockheed Aeronautical Systems Company (LASC)-Georgia Service Bulletin 382-53-50, Revision 1, dated December 13, 1991:

FS477 to FS517 General Area.	Work Card SP-126
FS477 Upper Web Flange..	Work Card SP-224
FS497 Overhead Bulkhead Web and Tee-Outboard S/N 3946 through S/N 4932.	Work Card SP-224
S/N 4933 through S/N 5305.	Work Card SP-126
FS497 Overhead Bulkhead Upper Attach Angle.	Work Card SP-224

(d) For airplanes that have been inspected in accordance with AD 89-15-03: Within 3,000 hours time-in-service since the last inspection, perform an inspection of the following areas of the pressurized fuselage FS structure according to the specified Work Card procedures of Hercules Maintenance Program Plan SMP 515-A/C, as shown in LASC-Georgia Service Bulletin 382-53-50, Revision 1, dated December 13, 1991:

FS477 to FS517 General Area.	Work Card SP-126
FS477 Upper Web Flange..	Work Card SP-224
FS497 Overhead Bulkhead Web and Tee-Outboard S/N 3946 through S/N 4932.	Work Card SP-224
S/N 4933 through S/N 5305.	Work Card SP-126
FS497 Overhead Bulkhead Upper Attach Angle.	Work Card SP-224

(e) For all other airplanes, not subject to paragraph (c) or (d) of this AD: Prior to the accumulation of 6,300 hours time-in-service, or within 45 days after the effective date of this AD, whichever occurs later, perform an inspection of the following areas of the pressurized fuselage FS structure according to the specified Work Card procedures of Hercules Maintenance Program Plan SMP 515-A/C, as shown in LASC-Georgia Service Bulletin 382-53-50, Revision 1, dated December 13, 1991:

FS477 to FS517 General Area.	Work Card SP-126
FS477 Upper Web Flange..	Work Card SP-224
FS497 Overhead Bulkhead Web and Tee-Outboard. S/N 3946 through S/N 4932.	Work Card SP-224
S/N 4933 through S/N 5305.	Work Card SP-126
FS497 Overhead Bulkhead Upper Attach Angle.	Work Card SP-224

(f) For all airplanes: At intervals not to exceed 3,600 hours time-in-service, repeat the inspections specified in, and in accordance with, the specified Work Card procedures of Hercules Maintenance Program Plan SMP 515-A/C, as shown in LASC-Georgia Service Bulletin 382-53-50, Revision 1, dated December 13, 1991:

FS477 to FS517 General Area.	Work Card SP-126

FS477 Upper Web Flange..	Work Card SP-224
FS497 Overhead Bulkhead Web and Tee-Outboard	
S/N 3946 through S/N 4932.	Work Card SP-224
S/N 4933 through S/N 5305.	Work Card SP-126
FS497 Overhead Bulkhead Upper Attach Angle.	Work Card SP-224

(g) If cracks are found, prior to further flight, repair in accordance with the procedures contained in Appendix A of LASC-Georgia Service Bulletin 382-53-50, Revision 1, dated December 13, 1991; or in a manner approved by the Manager, Atlanta Aircraft Certification Office, ACE-115A, FAA, Small Airplane Directorate. After repair, continue to perform the repetitive inspections required by paragraph (f) of this AD.

(h) The limitations required by paragraphs (a) and (b) of this AD may be removed if one of the conditions specified in either paragraph (h)(1), (h)(2), (h)(3), or (h)(4) of this AD, is applicable:

(1) If no cracks were found as a result of the inspections performed in accordance with AD 89-15-03, Amendment 39-6265; or

(2) If any cracks were found as a result of the inspections performed in accordance with AD 89-15-03, Amendment 39-6265 were repaired in accordance with paragraph C. of that AD; or

(3) If no cracks are found as a result of the inspections required by paragraphs (c), (d), (e), or (f) of this AD; or

(4) If cracks are found as a result of the inspections required by paragraphs (c), (d), (e), or (f) of this AD, and they are repaired in accordance with paragraph (g) of this AD.

(i) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Atlanta Aircraft Certification Office (ACO), ACE-115A, FAA, Small Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Atlanta ACO.

(j) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(k) The inspections and repairs shall be done in accordance with Lockheed Aeronautical Systems Company (LASC)-Georgia Service Bulletin 382-53-50, Revision 1, dated December 13, 1991, which includes the following list of effective pages:

Page No.	Revision level	Date
1-11, A7, A8	1	December 13, 1991
A-1	Original	February 14, 1990
A2-A6, A9-A33	Original	Undated

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Lockheed Aeronautical Systems Company-Georgia, Attn: Commercial and Customer Support, Dept. 73-05, Zone 0199, 86 South Cobb Drive, Marietta, Georgia 30063. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(l) This amendment becomes effective on June 29, 1992.

Issued in Renton, Washington, on April 23, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-12004 Filed 5-21-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 92-NM-77-AD; Amdt. 39-8242; AD 92-10-08]

Airworthiness Directives; Boeing Model 757-200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 757-200 series airplanes equipped with Rolls-Royce RB211-535 series engines. This action requires replacement of a certain restrictor union on each engine strut in the return port of the thrust reverser directional control valves. This amendment is prompted by a determination that damage to a thrust reverser actuator piston seal, in combination with activation of the thrust reverser auto-restow system, could result in uncommanded deployment of the thrust reverser. The actions specified in this AD are intended to prevent in-flight deployment of both thrust reverser sleeves on one engine, which could result in reduced controllability of the airplane.

DATES: Effective June 8, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 8, 1992.

Comments for inclusion in the Rules Docket must be received on or before July 21, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-77-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jeffrey Duven, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2688; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A recent review of the thrust reverser actuator system design of Boeing Model 757-200 series airplanes equipped with Rolls-Royce RB211-535 series engines has revealed that activation of the thrust reverser auto-restow sytem, in combination with a damaged thrust reverser actuator piston seal, can cause an increase in hydraulic pressure within the thrust reverser locking actuators. Under these conditions, hydraulic pressure can increase to a level sufficient to unlock the thrust reverser locking actuators, and deploy both thrust reverser sleeves on one engine. Deployment of both thrust reverser sleeves on one engine can occur while the airplane is either in flight or on the ground. This condition, if not corrected, could result in reduced controllability of the airplane.

The FAA has reviewed and approved Boeing Alert Service Bulletin 757-78A0030, dated January 31, 1992, that describes procedures for replacement of a restrictor union with a standard union (on each engine strut) in the return port of both engine thrust reverser system directional control valves; and a functional test of the thrust reverser system. This modification will prevent hydraulic pressure build-up within the thrust reverser locking actuators that could occur if the auto-restow system is activated in combination with a damaged thrust reverser actuator piston seal. Hydraulic pressure held below that required to unlock the thrust reverser locking actuators will prevent the possibility of in-flight deployment of both thrust reverser sleeves on one engine.

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 757–200 series airplanes of the same type design, this AD is being issued to prevent in-flight deployment of both thrust reverser sleeves on one engine, which could result in reduced controllability of the airplane. This AD requires replacement of a restrictor union with a standard union, on each engine strut, in the return port of both engine thrust reverser system directional control valves; and a functional test on the thrust reverser system. The actions are required to be accomplished in accordance with the service bulletin described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–77–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92–10–08. Boeing: Amendment 39–8242. Docket 92–NM–77–AD.

Applicability: Boeing Model 757–200 series airplanes equipped with Rolls-Royce RB211–535 series engines; as listed in Boeing Alert Service Bulletin 757–78A0030, dated January 31, 1992; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent in-flight deployment of both thrust reverser sleeves on one engine, which could result in reduced controllability of the airplane, accomplish the following:

(a) Within 90 days after the effective date of this AD, replace the restrictor union with a standard union on each engine strut in the return port of the thrust reverser directional control valve; and perform a functional test of the thrust reverser system; in accordance with Boeing Alert Service Bulletin 757–78A0030, dated January 31, 1992.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The replacement and functional test shall be done in accordance with Boeing Alert Service Bulletin 757–78A0030, dated January 31, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(e) This amendment becomes effective on June 8, 1992.

Issued in Renton, Washington, on April 20, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 92–12002 Filed 5–21–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 35, 50, 131, 141, 292, 300, and 385

[Docket No. RM92–6–000]

Eliminating Unnecessary Regulation; Order No. 541, Final Rule and Policy Statement

Issued May 1, 1992

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule and policy statement.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is making minor clerical changes in its regulations and is deleting regulations that are obsolete or require information that the Commission either no longer needs or which is readily available from other sources.

The Commission is also issuing a policy statement designed to streamline the way the Commission manages its electric utility caseload. The policy statement provides clarity and certainty to the regulated industry and is designed to prevent needless litigation.

EFFECTIVE DATE: This final rule and policy statement is effective May 1, 1992.

FOR FURTHER INFORMATION CONTACT: Joseph C. Lynch, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–2128.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, at the Commission's Headquarters, 941 North Capitol Street, NE., Washington, DC 20426. The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this final rule will be available on CIPS for 10 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler, Jerry J. Langdon and Branko Terzic.

Deletions of Certain Outdated or Nonessential Regulations Pertaining to the Commission's Jurisdiction under Parts II and III of the Federal Power Act, the Public Utility Regulatory Policies Act of 1978, the Pacific Northwest Electric Power Planning and Conservation Act and Delegations from the Secretary of Energy; Final Rule and Policy Statement

[Docket No. RM92–6–000; Order No. 541]

Issued May 1, 1992.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is making clerical changes in its regulations and is rescinding as unnecessary certain obsolete regulations. The data that those regulations seek either already have been collected, are obtainable from other sources or are no longer needed to process the Commission's public utility case load.

The Commission is also issuing a policy statement designed to streamline the way the Commission manages its public utility caseload. The policy statement provides clarity and certainty to the regulated industry and is designed to prevent needless litigation.

II. Public Reporting Burden

This rule eliminates electric filing regulations that are obsolete, that require data that the Commission no longer needs, or that require data that are readily obtainable elsewhere. Consequently, the Commission's filing regulations will more accurately identify currently required data. As a result, the public should be able to identify more efficiently the types of applications and related information that the Commission requires. In particular, the Commission estimates that this rule will reduce the public reporting burden for FERC–520, "Corporate Applications-interlocking Positions," as a result of the deletion of the requirement that applications to hold interlocking positions be verified. In addition, a significant decrease in the public reporting burden will result from the elimination of the Part 50 requirement that public utilities file a written statement of their procurement policies and practices.

Send comments regarding these burden estimates or any other aspect of the Commission's collection of information, including suggestions for reducing this burden, to the Federal Energy Regulatory Commission, 941 North Capitol Street, NE., Washington, DC 20426 [Attention: Michael Miller, Information Policy and Standards Branch (202) 208–1415], and to the Office of Information and Regulatory Affairs of the Office of Management and Budget [Attention: Desk Officer for Federal Energy Regulatory Commission].

III. Discussion

Based on its review, the Commission has determined that several regulations should be deleted in order to streamline the Commission's processing of its workload and reduce regulatory burdens on the electric utility industry. The deleted regulations are obsolete procedural rules.

The Commission is also revising parts 35 and 131 of its regulations to replace references to "Federal Power Commission" with references to "Federal Energy Regulatory Commission."

For the reasons discussed below, the Commission is deleting the following regulations:

1. Sections 2.1(a)(1)(ii) (B), (C), (E) and 2.1(a)(1)(ix)

It has been the Commission's policy to notice in the **Federal Register** applications for: (1) Interconnection and service under section 202(c) of the Federal Power Act; (2) interconnections for emergency use only, under section 202(d) of the Federal Power Act; (3) authority to export electric energy to a foreign country under section 202(e) of the Federal Power Act; and (4) Presidential electric permits.[1] These sections implement that policy. There is no longer any reason to retain these sections because applications under these authorities are no longer submitted to the Commission. These applications are now submitted to the Department of Energy and the regulations are now obsolete.[2]

2. Section 2.5

In the *Colton* case, *FPC* v. *Southern California Edison Company*,[3] the Supreme Court determined that the Commission's predecessor, the Federal Power Commission, had jurisdiction over all wholesale sales of electricity in interstate commerce, except those sales that Congress made explicitly subject to state regulation.[4] Immediately following *Colton*, the Commission received a number of inquiries from the electric utility industry regarding the filing of tariffs that had not previously been filed with the Commission. The Commission adopted the policy that so long as rate schedules were filed with the Commission by August 1, 1964, the

[1] The authority for these permits is Executive Order No. 10485 (3 CFR, 1949–54 Comp., p. 970).

[2] Department of Energy Organization Act, 42 U.S.C. 7151(b), 7172(a)(1)(B).

[3] 376 U.S. 205 (1964).

[4] *Id.* at 216.

Commission would not initiate, on its own motion, any inquiry into past failures to file such schedules. Because all necessary filings under this policy have been made, this regulation is now obsolete.

3. Sections 2.10 and 2.11

These sections set forth the Commission's policy regarding actions minimizing the consequences of bulk power supply interruptions or shortages and reliability and adequacy of electric service. Oversight of these functions has been transferred to the Department of Energy [5] and the regulations are now obsolete.

4. Section 35.20

This section requires persons authorized to transmit electric energy from the United States to a foreign country to file with the Commission all rate schedules, supplements, notices of succession in ownership or operation, notices of cancellation and certificates of concurrence. Oversight of these transactions has been transferred to the Department of Energy [6] and the regulation is now obsolete.

5. Section 35.27

In this section the Commission established an abbreviated filing procedure and formula to permit public utilities to make adjustments to their rates to reflect the decrease in the federal corporate income tax rate pursuant to the Tax Reform Act of 1986. The section requires that public utilities complete all filings by November 30, 1987. All required filings have already been made and the regulation is now obsolete.

6. Part 50

This Part, consisting of § 50.1, requires public utilities, licensees and permittees to reduce their procurement policies to writing, file them with the Commission, and make them available to the public. The Federal Power Commission added these regulations by Federal Power Commission Order No. 386.[7] Through their rates, the utilities generally pass directly on to the customer the cost of goods and services that utilities use in providing electric service. In its Order No 386, the Federal Power Commission concluded that the existence of written procurement policies and practices would facilitate the efficient acquisition of equipment, materials and services and help to ensure that utilities' rates would be just and reasonable.

Since that time, challenges to the effectiveness of corporate management systems and internal controls (particularly in prudence reviews before regulatory agencies), as well as increasing competition in the industry, have compelled utilities to improve their management structures and internal controls as a means of safeguarding resources and curbing costs. Written procurement policies are now an integral part of these internal controls systems.

In light of all these factors, the filing of written procurement policies and practices no longer serves a useful purpose. Assurance that an adequate system of internal controls exists and is functioning effectively can be achieved through the Commission's compliance audit program without requiring any additional filings.

7. Section 131.60

Section 45.7 requires that applications to hold interlocking positions must be verified. Section 131.60 sets forth the form for that verification. A signed application is sufficient, and that requirement is already contained in rule 2005 of the Commission's Rules of Practice and Procedure.[8] Section 131.60 is, therefore, no longer necessary.

8. Section 141.100

This section requires each public utility or licensee to report in its annual reports to shareholders and others the amount of investment tax credits that it has generated and used and a statement of the accounting method that the company uses to account for the tax credits. The Commission is eliminating this regulation because it has outlived its usefulness. Generally accepted accounting principles now require the disclosure of such information in annual reports to shareholders.

9. Section 292.203(c)(2)

This section states that certain small power production facilities are not qualifying facilities while the moratorium described in section 8(e) of the Electric Consumers Protection Act of 1986 (ECPA), Pub. L. No. 99–495, is in effect. The ECPA moratorium has expired and the regulation is now obsolete.[9]

10. Section 292.401

This section requires state regulatory authorities and non-regulated electric utilities to implement, within one year of when the Commission's PURPA regulations take effect, the arrangements between electric utilities and qualifying cogenerators and small power production facilities that are defined in Subpart C of the Commission's PURPA regulations. The Commission's PURPA regulations took effect in 1980, and the requirements were implemented by the end of 1981. Therefore, § 292.401 is now obsolete.

11. Sections 300.10(d)(2), (4) and Sections 300.10(f)(2)(i), (vi)

These sections require that applications for approval of Federal Power Marketing Administration rates contain statements of the character and conditions of service and the method of billing or a definition of the billing demand, as well as the procedural history of the filing and the names and addresses of certain customers and other persons. This information is no longer necessary to review Federal Power Marketing Administration rates. This information deals with rate design and Federal Power Marketing Administration public hearings, which are beyond the scope of the Commission's review.[10]

12. Section 385.602(c)(1)(iv)

This section requires that settlement submissions include a draft order approving the settlement. Because the Commission always fashions its own order approving settlements, this section is not necessary.

The Commission is also revising part 35 and part 131. The Commission is replacing all references to "Federal Power Commission" with "Federal Energy Regulatory Commission."

IV. Policy Statement for Electric Rate Filings

To provide clarity and certainty to the regulated community and to prevent needless litigation, the Commission intends, effective as of the date of issuance of this order, to rely increasingly on summary disposition to expedite case processing. Failure to tell parties that their claims contradict law and policy results in needless litigation and leads parties to believe that they

[5] Department of Energy Organization Act, 42 U.S.C. 7151(b), 7172(a)(1)(B).

[6] *Id.*

[7] Procurement-Competition, FPC Order No. 386, 34 FR 12825 (August 7, 1969), 42 FPC 287 (1969).

[8] 18 CFR 385.2005.

[9] The moratorium was scheduled to end at the expiration of the first full session of Congress following the session during which the Commission reported to Congress on the results of a study required by section 8(d) of ECPA. By order issued October 7, 1988, the Commission issued its report to Congress, recommending continuation of PURPA benefits to projects subject to the moratorium. *See Electric Consumers Protection Act, Section 8(d) Study*, 45 FERC ¶ 61,051 (1988). The moratorium thus expired on November 22, 1989. See H.R. Rep. No. 99–934, 99th Cong., 2d Sess. 32 (1986).

[10] See Aluminum Company of America v. Bonneville Power Administration, 903 F.2d 585 (9th Cir. 1990).

have taken valid positions that they would be unwise to compromise. By relying on summary disposition, where appropriate, the Commission will reduce unwarranted litigiousness and remove impediments to settlements among parties.

V. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment.[11] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[12] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural or that does not substantially change the effect of legislation or regulations being amended.[13] This final rule is procedural in nature. It merely makes clerical changes and deletes reporting requirements and regulations that the Commission has decided are no longer necessary. Accordingly, no environmental consideration is necessary.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act [14] requires rulemakings to either contain a description and analysis of the impact the rule will have on small entities or to certify that the rule will not have a substantial economic impact on a substantial number of small entities. This final rule removes unnecessary and obsolete regulations; it does not establish any new reporting requirements. Further, the data that the Commission would no longer require to be filed are either no longer necessary or could, if necessary, still be obtained from other existing sources. Consequently, the Commission certifies that this rule will not have "a significant economic impact on a substantial number of small entities."

VII. Information Collection Statement

The Office of Managements and Budget's (OMB) regulations [15] require that OMB approve certain information collection requirements imposed by an agency. The information collection requirements in this final rule are contained in FERC–520 "Corporate Applications-Interlocking Positions" (1902–0083), and FERC 556 "Cogeneration and Small Power Production" (1902–0075).

The Commission used the data collected in these information requirements to carry out its regulatory responsibilities pursuant to the FPA, PURPA, the Pacific Northwest Electric Power Planning and Conservation Act and delegations to the Commission from the Secretary of Energy. The Commission's Office of Electric Power Regulation used the data in reviewing applications for interlocking positions and applications that encourage the use of small power production facilities. The Commission is deleting reporting requirements and regulations that the Commission no longer considers necessary.

The Commission is submitting to the Office of Management and Budget a notification that these collections of information are no longer required. Interested persons may obtain information on these reporting requirements by contacting the Federal Energy Regulatory Commission, 941 North Capitol Street NE., Washington, DC 20426 [Attention: Michael Miller, Information Policy and Standards Branch, (202) 208–1415]. Comments on the requirements of this rule can be sent to the Office of Information and Regulatory Affairs of OMB [Attention: Desk Officer for Federal Energy Regulatory Commission].

VIII. Administrative Findings and Effective Date

The Administrative Procedure Act (APA) [16] requires rulemakings to be published in the **Federal Register**. The APA also mandates that an opportunity for comment be provided when an agency promulgates regulations. Notice and comment are not required under the APA when the agency, for good cause, finds that notice and public comment are impracticable, unnecessary or contrary to the public interest.[17] The Commission finds that notice and comment are unnecessary for this rulemaking. The Commission is merely making clerical changes in its regulations, deleting obsolete regulations and removing reporting requirements for data that the Commission no longer requires or which may be obtained from other existing sources.

Because this final rule is merely procedural, the Commission finds good cause to make this rule effective immediately upon issuance. This final rule is effective May 1, 1992.

List of Subjects

18 CFR Part 2

Administrative practice and procedure, Electric power, Reporting and recordkeeping requirements.

18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

18 CFR Part 50

Electric utilities.

18 CFR Part 131

Electric power.

18 USC Part 141

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 292

Electric power plants, Electric utilities, Reporting and recordkeeping requirements.

18 CFR Part 300

Administrative practice and procedure, Electric power rates, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends parts 2, 35, 50, 131, 141, 292, 300 and 385 chapter I, title 18, *Code of Federal Regulations* as set forth below.

By the Commission.

Lois D. Cashell,

Secretary.

PART 2—GENERAL POLICY AND INTERPRETATIONS

1. The authority citation for part 2 is revised to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 792–825r, 2601–2645; 42 U.S.C. 4321–4361, 7101–7352.

§ 2.1 [Amended]

2. In § 2.1, paragraphs (a)(1)(ii)(B), (a)(1)(ii)(C), (a)(1)(ii)(E), and (a)(1)(ix) are removed and reserved.

3. §§ 2.5, 2.10 and 2.11 are removed.

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[11] Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. and Regs. ¶ 30,783 (1987).

[12] 18 CFR 380.4.

[13] 18 CFR 380.4(a)(2)(ii).

[14] 5 U.S.C. 601–612.

[15] 5 CFR 1320.12.

[16] 5 U.S.C. 551–559.

[17] 5 U.S.C. 553(b).

PART 35—FILING OF RATE SCHEDULES

4. The authority citation for part 35 is revised to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

5. In part 35, remove the words "Federal Power Commission" and add, in their place, the words "Federal Energy Regulatory Commission" in the following places:

§ 35.1 [Amended]

(a) Section 35.1 (d)(2) and (d)(3);

§ 35.7 [Amended]

(b) Section 35.7;

§ 35.8 [Amended]

(c) Section 35.8(a) in both the heading and the text of the form of notice; and

§ 35.18 [Amended]

(d) Section 35.18.

§§ 35.8 and 35.9 [Amended]

6. In §§ 35.8 and 35.9 remove the word "F.P.C." and add, in its place, the word "F.E.R.C.".

§§ 35.20 and 35.27 [Removed]

7. §§ 35.20 and 35.27 are removed.

PART 50—FILING OF COMPANY PROCUREMENT POLICIES AND PRACTICES

8. Part 50 is removed.

PART 131—FORMS

9. The authority citation for part 131 is revised to read as follows:

Authority: 16 U.S.C. 797, 825, 825g, 825h.

10. In part 131, remove the words "Federal Power Commission" and add, in their place, the words "Federal Energy Regulatory Commission" in the following places:

§ 131.20 [Amended]

(a) Section 131.20 in both the heading and the text of the third paragraph of the form of application;

§ 131.51 [Amended]

(b) Section 131.51; and

§ 131.53 [Amended]

(c) Section 131.53.

§ 131.51, 131.52 and 151.53 [Amended]

11. In §§ 131.51, 131.52 and 131.53 remove the word "F.P.C." and add, in its place, the word "F.E.R.C.".

§ 131.60 [Removed]

12. § 131.60 is removed.

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

13. The authority citation for part 141 continues to read as follows:

Authority 16 U.S.C. 791a–828c, 2601–2645; 42 U.S.C. 7102–7352.

§ 140.100 [Removed]

14. § 141.100 is removed.

§ 141.200 [Redesignated as § 141.100]

15. § 141.200 is redesignated § 141.100.

PART 292—REGULATIONS UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 WITH REGARD TO SMALL POWER PRODUCTION AND COGENERATION

16. The authority citation for part 292 is revised to read as follows:

Authority: 16 U.S.C. 791a–824r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

§ 292.203 [Amended]

17. In § 292.203(c)(1), the phrase "except as provided in paragraph (c)(2) of this section" is removed.

18. In § 292.203, paragraph (c)(2) is removed.

§ 292.401 [Removed]

19. § 292.401 is removed.

§§ 292.402 and 292.403 [Redesignated as §§ 292.401 and 292.402]

20. §§ 292.402 and 292.403 are redesignated §§ 292.401 and 292.402, respectively.

PART 300—CONFIRMATION AND APPROVAL OF THE RATES OF FEDERAL POWER MARKETING ADMINISTRATIONS

21. The authority citation for part 300 is revised to read as follows:

Authority: 16 U.S.C. 825s, 832–8321, 838–838k, 839–839h; 42 U.S.C. 7101–7352; 43 U.S.C. 485–485k.

§ 300.10 [Amended]

22. In § 300.10, paragraph (d)(2) and (d)(4) are removed, paragraphs (d)(3), (d)(5) and (d)(6) are redesignated as paragraphs (d)(2), (d)(3) and (d)(4) respectively, paragraphs (f)(2)(i) and (f)(2)(vi) are removed, and paragraphs (f)(2)(ii), (f)(2)(iii), (f)(2)(iv) and (f)(2)(v) are redesignated as paragraphs (f)(2)(i), (f)(2)(ii), (f)(2)(iii) and (f)(2)(iv), respectively.

PART 385—RULES OF PRACTICE AND PROCEDURE

23. The authority citation for part 385 is revised to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 3301–3432; 16 U.S.C. 717–717w; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 1–27.

§ 385.602 [Amended]

24. In § 385.602, paragraph (c)(1)(iv) is removed.

[FR Doc. 92–11934 Filed 5–21–92; 8:45 am]
BILLING CODE 6717–01–M

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18 CFR Parts 4, 8, 16, 24, 103, and 141

[Docket No. RM92–5–000; Order No. 540]

Modification of Hydropower Procedural Regulations, Including the Deletion of Certain Outdated or Non-Essential Regulations

Issued May 1, 1992.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has reviewed its hydropower procedural regulations in order to determine whether they contain any outdated requirements or impose any unnecessary burdens on persons subject to the Commission's jurisdiction. As a result of this review, the Commission has identified a number of regulatory requirements that are outdated or unnecessary. The modification of the regulations to remove these requirements will make it easier for persons to participate in hydropower proceedings and to hold licenses and exemptions to operate hydropower projects. The Commission is confident that these modifications would not in any way prejudice the rights of any participant in those proceedings or anyone interested in the Commission's hydropower program. Because these changes relate only to the Commission's procedures and relieve unnecessary regulatory burdens, notice and comment on the changes are inappropriate, and the changes are effective immediately on issuance.

EFFECTIVE DATE: May 1, 1992.

FOR FURTHER INFORMATION CONTACT: Merrill Hathaway, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–0825.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room

3308 at the Commission's headquarters, 941 North Capitol Street NE., Washington, DC 20426.

The Commission's Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this final rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street NE., Washington, DC 20426.

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler, Jerry J. Langdon and Branko Terzic.

Modification of Hydropower Procedural Regulations, Including the Deletion of Certain Outdated or Non-Essential Regulations

[Docket No. RM92–5–000; Order No. 540]

Issued May 1, 1992.

I. Introduction

The Federal Energy Regulatory Commission (Commission) has reviewed its hydropower procedural regulations in order to determine whether they contain any outdated requirements or impose any unnecessary burdens on persons subject to the Commission's jurisdiction. As a result of this review, the Commission has identified a number of regulatory requirements that are outdated or unnecessary. The modification of the regulations to remove these requirements would make it easier for persons to participate in hydropower proceedings and to hold licenses or exemptions to operate hydropower projects. The Commission believes that these modifications would not in any way prejudice the rights of any participant in those proceedings or anyone interested in the Commission's hydropower program. Because these changes relate only to the Commission's procedures and relieve unnecessary regulatory burdens, notice and comment on the changes is not required, and the changes are effective immediately on issuance of this order.[1]

[1] Additional changes to the Commission's regulations affecting certain licenses may be found in the RM92–6–000 proceeding, a final rule and policy statement issued concurrently with this rule.

II. Public Reporting Burden

The Commission estimates the public reporting burden that will be reduced as a result of this rule to be an average of 2 hours per response for FERC–80 "Licensed Hydropower Development Recreation Report," 42 hours per response for FERC–500 "Application for License for Hydropower Projects Greater than 5 MW Capacity," 9 hours per response for FERC–505 "Application for License for Major and Minor Hydropower Projects, 5 MW or Less Capacity," 4 hours per response for FERC–512 "Preliminary Permit," and 4 hours per response for FERC–515 "Hydropower License—Declaration of Intention." The current annual reporting burdens associated with these forms are: 3 hours for FERC–80; 832 hours for FERC–500; 178 hours for FERC–505; 77 hours for FERC–512; and 80 hours for FERC–515. These estimates include the time for reviewing instructions, researching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing this burden, to the Federal Energy Regulatory Commission, 941 North Capitol Street, NE, Washington, DC 20426 [Attention: Michael Miller, Information Policy and Standards Branch, (202) 208–1415]; and to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for Federal Energy Regulatory Commission).

III. Discussion

A. Requirement To File an Original and 14 Copies

Section 385.2004 of the regulations requires that all filings with the Commission consist of an original and 14 copies, unless otherwise required by statute, rule, or order. The hydropower regulations reflect this requirement and require an original and 14 copies of an application for a preliminary permit, license or exemption.[2] No general provision is made in the regulations for filing less than an original and 14 copies of submissions during hydropower hearings.[3]

[2] Section 4.23(b). Section 24.1 also requires the filing of an original and 10 copies of a declaration of intention to construct hydropower facilities, pursuant to section 23(b) of the Federal Power Act (FPA). 16 U.S.C. 816.

[3] Section 4.34.

The Commission does not need this many copies of hydropower applications. The Commission also does not need this many copies of filings in hydropower hearings, unless they are conducted using trial-type procedures.[4] Accordingly, the Commission is revising its hydropower regulations to specify that only an original and 8 copies of any hydropower application, including applications for preliminary permit, license, exemption, transfer or surrender, need be filed.[5] The Commission is also revising its regulations to provide that, unless indicated otherwise by statute, rule or order, all filings in hydropower proceedings conducted by notice and comment should consist of an original and 8 copies.[6]

B. Requirement to File Full-Sized Drawings

Section 4.32(b) requires an applicant for preliminary permit, license, or exemption to file five sets of full-sized prints.

The Commission does not need full-sized prints in an application for preliminary permit, license, or exemption. Reduced-sized prints are usually sufficient for use by Commission staff. In particular cases, the Commission may request the submission of full-sized prints when required for complete analysis of an application. The Commission is revising its regulations accordingly.[7]

C. Requirement to File Five Copies of Design Reports

Sections 4.41(g)(4) and 4.51(g)(3) of the regulations require applicants for a license for a major unconstructed project, a major modified project, or a major project at an existing dam to file five copies of project design reports.

Two copies of project design reports are sufficient for the Commission's use. The regulations are revised to require only two copies of these reports to be filed.[8]

[4] Most hydropower hearings are conducted by notice and comment. Regulations Governing Submittal of Proposed Hydropower License Conditions and Other Matters, 55 FERC ¶ 61,193 (1991), 56 FR 23108 (May 20, 1991), *modified on rehearing*, 57 FERC ¶ 61,254 (1991), 56 FR 61137 (Dec. 2, 1991).

[5] Section 4.32(b). The Commission is also revising § 24.1 to require only an original and 8 copies of declarations of intention pursuant to section 23(b) of the FPA.

[6] Section 4.34(h). Participants are reminded that they are responsible for service of copies on all entities listed on the official service list in the proceeding or as required by Commission rule or order. Section 4.34(b).

[7] Section 4.32(b).

[8] Sections 4.41(g)(4) and 4.51(g)(3).

D. Form 80 Requirements

Section 8.11(a)(2) requires that licensees file Form 80, a report on use and development of recreational facilities, every four years. The form asks the licensee to report the number of visits to all recreation areas of the project and the annual recreational operation and maintenance costs. Under § 8.11(c), licensees may request an exemption from this requirement for any project that has no existing or potential recreational use.

The Commission does not need the information provided on this form every four years; submittal of the form every six years is sufficient to keep the Commission informed of patterns of use and development of recreational facilities by licensees. The Commission also concludes that the information provided on this form by licensees of projects with only a minor recreational use or potential is not useful. The Commission is therefore revising the regulations to provide that Form 80 need only be filed once every six years and that licensees of projects with a minor recreational use or potential may apply for an exemption from the requirement to file this form.[9]

E. Annual Conveyance Reports

By special license article, the Commission has required many licensees to submit an annual report, describing any conveyance of an easement, right-of-way, or lease of project lands that may have occurred.

This report is superfluous if no conveyance has actually occurred in the previous year. Accordingly, the Commission is adding a new regulation providing that, notwithstanding the literal language of any special license article, annual conveyance reports need be filed only if a designated conveyance of project lands has taken place in the previous year.[10]

F. Regulations on Investments in Road and Equipment

In part 103, the Commission's regulations set forth the 1914 regulations of the Interstate Commerce Commission (ICC) on steam road investments in road and equipment. These regulations occupy approximately 30 pages in the Code of Federal Regulations.

The Commission has included regulations of the ICC in the Commission's own regulations in order to determine the "net investment" in a hydropower project. FPA section 3(13) states in part:[11]

> [N]et investment" in a project means the actual legitimate original cost thereof as defined and interpreted in the "classification of investment in road and equipment of steam roads, issue of 1914, Interstate Commerce Commission * * *.

In the hydropower program the Commission uses the term "net investment" only to determine amortization reserves under FPA section 10(d), takeover price under FPA section 14, and compensation to certain municipalities that filed competing applications for nine named projects under section 10 of the Electric Consumers Protection Act of 1986.[12]

It is unnecessary for these regulations to appear in the Code of Federal Regulations in order to refer to them to determine "net investment" for purposes of the Commission's hydropower regulations. Accordingly, part 103 is hereby deleted from the Code of Federal Regulation.[13]

IV. Environmental Analysis

Commission regulations describe the circumstances where preparation of an environmental assessment or an environmental impact statement will be required.[14] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[15] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural.[16]

This final rule is procedural in nature, as it merely reduces certain filing requirements. Thus, no environmental assessment or environmental impact statement is necessary for the regulations implemented in the rule.

V. Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980 (RFA)[17] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. Pursuant to section 605(b) of the RFA, the Commission hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities, and that, even if the rule were to have such an impact, it would be to their benefit. The Commission believes that most of the entities affected by the rule do not fall within RFA's definition of "small entity." Even if the rule would have a significant effect on a substantial number of small entities, however, the reduced filing requirements provided by the rule will benefit those entities.

VI. Information Collection Requirements

The Office of Management and Budget's (OMB) regulations require that OMB approve certain information and recordkeeping requirements imposed by an agency.[18] The information collection requirements in this final rule are contained in FERC–80 "Licensed Hydropower Development Recreation Report" (1902–0106), FERC–500 "Application for License for Hydropower Projects Greater Than 5 MW Capacity" (1902–0058), FERC–505 "Application for License for Major and Minor Hydropower Projects, 5 MW or less Capacity (1902–0115), FERC–512 "Preliminary Permit" (1902–0073), and FERC–515 "Hydropower License Declaration of Intention."

The Commission uses the data collected in these information requirements to carry out its regulatory responsibilities pursuant to the FPA and related statutes and delegations to the Commission from the Secretary of Energy. The Commission uses the data for reviewing hydropower applications and determining compliance of licensees with the Commission's regulations and policies. The Commission has deleted reporting requirements and regulations that it no longer considers necessary.

The Commission is submitting to the OMB a notification that these collections of information are no longer required. Interested persons may obtain information on these reporting requirements by contacting the Federal Energy Regulatory Commission, 941 North Capitol Street, NE., Washington, DC 20426 [Attention: Michael Miller, Information Policy and Standards Branch, (202) 208–1415]. Comments on the requirements of this rule can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for Federal Energy Regulatory Commission).

VII. Administrative Findings and Effective Date

The Administrative Procedure Act (APA) requires rulemakings to be published in the **Federal Register**.[19] The

[9] Section 8.11(a)(2) and (c).

[10] Section 141.15.

[11] 16 U.S.C. 796(13).

[12] Pub. L. No. 99–495, 100 Stat. 1243 (Oct. 16, 1986) (codified at 16 U.S.C. 791a *et seq.*).

[13] Copies of part 103 as it existed will be available for reference in the Commission's library in Washington, DC.

[14] Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), codified at 18 CFR part 380.

[15] 18 CFR 380.4(a)(2)(ii).

[16] 18 CFR 380.4.

[17] 5 U.S.C. 601–612.

[18] 5 CFR 1320.12.

[19] 5 U.S.C. 551–559.

APA also mandates that an opportunity for comment be provided when an agency promulgates regulations. Notice and comment are not required under the APA when the "agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." [20] The Commission finds that notice and comment are unnecessary for this rulemaking. The Commission is merely eliminating or reducing unnecessary filing and reporting requirements.

This final rule is procedural in nature. The Commission, therefore, finds good cause to make this rule effective immediately upon issuance. This final rule is effective May 1, 1992.

List of Subjects

18 CFR Part 4

Electric Power, Reporting and recordkeeping requirements.

18 CFR Part 8

Electric power, Recreation and recreation areas, Reporting and recordkeeping requirements.

18 CFR Part 16

Administrative practice and procedure, Electric power, Reporting and recordkeeping requirements.

18 CFR Part 24

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 103

Railroads, Uniform system of accounts.

18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends parts 4, 8, 16, 24, 103, and 141 of chapter I, title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Lois D. Cashell,

Secretary.

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

1. The authority citation for part 4 is revised to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 42 U.S.C. 7101–7352.

[20] 5 U.S.C. 553(b)(B).

2. In § 4.32, paragraphs (b)(1) and (b)(2) are revised to read as follows:

§ 4.32 Acceptance for filing or rejection; information to be made available to the public; requests for additional studies.

* * * * *

(b) (1) Each applicant for a preliminary permit, license, and transfer or surrender of license and each petitioner for surrender of an exemption must submit to the Commission's Secretary for filing an original and eight copies of the application or petition. The applicant or petitioner must serve one copy of the application or petition on the Director of the Commission's Regional Office for the appropriate region and on each resource agency consulted pursuant to § 4.38 or § 16.8 of this chapter. In the case of an application for a preliminary permit, the applicant must, if the Commission so directs, serve copies of the application on the U.S. Department of the Interior and the U.S. Army Corps of Engineers. The application may include reduced prints of maps and drawings conforming to § 4.39(d). The originals (microfilm) of maps and drawings are not to be filed initially, but will be required pursuant to paragraph (d) of this section. The Commission may also ask for the filing of full-sized prints in appropriate cases.

(2) Each applicant for exemption must submit to the Commission's Secretary for filing an original and eight copies of the application. An applicant must serve one copy of the application on the Director of the Commission's Regional Office for the appropriate region and on each resource agency consulted pursuant to § 4.38. Maps and drawings need not conform to the requirements of § 4.39, but must be of sufficient size, scale, and quality to permit each reading and understanding. The originals (microfilm) of maps and drawings are not to be filed initially, but will be requested pursuant to paragraph (d) of this section.

* * * * *

3. In § 4.34, a new paragraph (h) is added to read as follows:

§ 4.34 Hearings on applications; consultation on terms and conditions; motions to intervene.

* * * * *

(h) Unless otherwise provided by statute, regulation or order, all filings in hydropower hearings, except those conducted by trial-type procedures, shall consist of an original and eight copies.

4. In § 4.41, paragraph (g)(4) is revised to read as follows:

§ 4.41 Contents of application.

* * * * *

(g) * * *

(4) The applicant must submit two copies of the supporting design report described in paragraph (g)(3) of this section at the time preliminary and final design drawings are submitted to the Commission for review. If the report contains preliminary drawings, it must be designated a "Preliminary Supporting Design Report."

* * * * *

5. In § 4.51, paragraph (g)(3) is revised to read as follows:

§ 4.51 Contents of application.

* * * * *

(g) * * *

(3) The applicant must submit two copies of the supporting design report as described in paragraph (g)(2) of this section at the time general design drawings are submitted to the Commission for review.

* * * * *

PART 8—RECREATIONAL OPPORTUNITIES AND DEVELOPMENT AT LICENSED PROJECTS

6. The authority citation for part 8 is revised to read as follows:

Authority: 5 U.S.C. 551–557; 16 U.S.C. 791a–825r; 42 U.S.C. 7101–7352.

7. In § 8.11, paragraphs (a)(2) and (c) are revised to read as follows:

§ 8.11 Information respecting use and development of public recreational opportunities.

(a) *Applicability.*

* * * * *

(2) FERC Form No. 80 is due on April 1, 1991, for data compiled during the calendar year ending December 31, 1990. Thereafter, FERC Form No. 80 is due on April 1 of every sixth year for data compiled during the previous calendar year.

* * * * *

(c) *Exemptions.* A licensee who has filed a Form No. 80 may request an exemption from any further filing of the form for any development that has no existing or potential recreational use or only a minor existing or potential recreational use (as indicated by fewer than 100 recreation days of use during the previous calendar year) by submitting a statement not later than 6 months prior to the due date for the next filing, stating that Form No. 80 has been

filed previously for such development and setting out the basis for believing that the development has no existing or potential recreational use or a minor existing or potential recreational use.

PART 16—PROCEDURES RELATING TO TAKEOVER AND RELICENSING OF LICENSED PROJECTS

8. The authority citation for part 16 is revised to read as follows:

Authority: 16 U.S.C. 791a–825r; 42 U.S.C. 7101–7352.

§ 16.18 [Amended]

9. Section 16.18, is amended by removing the heading and the statement following paragraph (d).

PART 24—DECLARATION OF INTENTION

10. The authority citation for part 24 is revised to read as follows:

Authority: 16 U.S.C. 791a–825r; 44 U.S.C. 3501 *et seq.*; 42 U.S.C. 7101–7352.

11. In § 24.1, the first sentence is revised to read as follows:

§ 24.1 Filing.

An original and eight conformed copies of each declaration of intention under the provisions of section 23(b) of the Act shall be filed. * * *

* * * * *

PART 103—STEAM ROAD INVESTMENTS IN ROAD AND EQUIPMENT; APPLICATION OF ICC CLASSIFICATION

12. Part 103 is removed.

PART 141—STATEMENTS AND RATES (SCHEDULES)

13. The authority citation for part 141 is revised to read as follows:

Authority: 16 U.S.C. 791a–828c, 2601–2645; 42 U.S.C. 7102–7352.

14. A new § 141.15 is added to read as follows:

§ 141.15 Annual Conveyance Report.

If a licensee of a hydropower project is required by its license to file with the Commission an annual report of conveyances of easements or rights-of-way across, or leases of, project lands, the report must be filed only if such a conveyance or lease of project lands has occurred in the previous year.

[FR Doc. 92–11935 Filed 5–21–92; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF JUSTICE

28 CFR Part 14

[AG Order No. 1591–92]

Alternative Dispute Resolution Under the Federal Tort Claims Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Order revises § 14.6 of part 14, title 28 of the Code of Federal Regulations to provide guidance to agencies and to inform the public of the rules applicable to agency use of alternative dispute resolution techniques in the course of consideration and resolution of administrative claims under the Federal Tort Claims Act. The regulations are adopted to foster appropriate use by agencies of alternative dispute resolution and to implement recent amendments to 28 U.S.C. 2672. The Order does not restrict the authority of the Attorney General over the litigation of claims.

EFFECTIVE DATE: May 22, 1992.

FOR FURTHER INFORMATION CONTACT: Jeffrey Axelrad, Director, Torts Branch, Civil Division, U.S. Department of Justice, Washington, DC 20530, (202) 501–7075.

SUPPLEMENTARY INFORMATION: This Order defines and clarifies agency settlement authority under the Federal Tort Claims Act ("FTCA"). Section 2672 of title 28, United States Code, as amended by section 8(a) of the Administrative Dispute Resolution Act ("ADR Act"), Public Law No. 101–552, 104 Stat. 2746 (1990), authorizes the Attorney General to approve any award, compromise, or settlement in excess of $25,000 of an administrative claim filed pursuant to the Federal Tort Claims Act ("FTCA"); to delegate to the head of an agency authority to make an award, compromise, or settlement under the FTCA, not to exceed the authority delegated by the Attorney General to the United States Attorneys to settle claims for money damages against the United States; and, to prescribe regulations for the administrative adjustment of claims under the FTCA.

This final rule revises 28 CFR 14.6 to clarify the procedures for use of alternative dispute resolution as a means to dispose of claims filed under the FTCA, to set forth procedures and policies pertaining to the delegation of settlement authority in excess of $25,000, to incorporate the recent amendments to 28 U.S.C. 2672 that were made by section 8(a) of the ADR Act, and to improve the clarity of § 14.6.

Paragraphs (a) and (b) of § 14.6 are new and provide agency guidance regarding alternative methods of dispute resolution. Paragraphs (c) and (d) are similar to paragraphs (a) through (c) of the prior version of § 14.6. Paragraph (e) is similar to, and replaces, prior § 14.7. As a result, § 14.7 has been removed and reserved. Also, § 14.10(a) has been revised to reflect the increased authority of the Attorney General under the ADR Act.

This Order is a statement of Department policy and a rule of agency procedure and practice. Consequently, an opportunity to comment is not required prior to the effective date, pursuant to 5 U.S.C. 553(b). In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of Executive Order No. 12291, nor does it have Federalism implications warranting the preparation of a Federalism Assessment in accordance with section 6 of Executive Order No. 12612.

List of Subjects in 28 CFR Part 14

Authority delegations (Government agencies), Claims.

By virtue of the authority vested in me as Attorney General by 28 U.S.C. 509 and 510, 5 U.S.C. 301, and 38 U.S.C. 224(a), part 14 of title 28 of the Code of Federal Regulations is amended as follows:

PART 14—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

1. The authority citation for part 14 is revised to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 2672; 38 U.S.C. 224(a).

2. Section 14.6 is revised to read as follows:

§ 14.6 Dispute resolution techniques and limitations on agency authority.

(a) *Guidance Regarding Dispute Resolution.* The administrative process established pursuant to 28 U.S.C. 2672 and this part 14 is intended to serve as an efficient effective forum for rapidly resolving tort claims with low costs to all participants. This guidance is provided to agencies to improve their use of this administrative process and to maximize the benefit achieved through application of prompt, fair, and efficient techniques that achieve an informal resolution of administrative tort claims without burdening claimants or the agency. This section provides guidance

to agencies only and does not create or establish any right to enforce any provision of this part on behalf of any claimant against the United States, its agencies, its officers, or any other person. This section also does not require any agency to use any dispute resolution technique or process.

(1) Whenever feasible, administrative claims should be resolved through informal discussions, negotiations, and settlements rather than through the use of any formal or structured process. At the same time, agency personnel processing administrative tort claims should be trained in dispute resolution techniques and skills that can contribute to the prompt, fair, and efficient resolution of administrative claims.

(2) An agency may resolve disputed factual questions regarding claims against the United States under the FTCA, including 28 U.S.C. 2671–2680, through the use of any alternative dispute resolution technique or process if the agency specifically agrees to employ the technique or process, and reserves to itself the discretion to accept or reject the determinations made through the use of such technique or process.

(3) Alternative dispute resolution techniques or processes should not be adopted arbitrarily but rather should be based upon a determination that use of a particular technique is warranted in the context of a particular claim or claims, and that such use will materially contribute to the prompt, fair, and efficient resolution of the claims. If alternative dispute resolution techniques will not materially contribute to the prompt, fair, and efficient resolution of claims, the dispute resolution processes otherwise used pursuant to these regulations shall be the preferred means of seeking resolution of such claims.

(b) *Alternative Dispute Resolution.*

(1) *Case-by-case.* In order to use, and before using, any alternative dispute resolution technique or process to facilitate the prompt resolution of disputes that are in excess of the agency's delegated authority, an agency may use the following procedure to obtain written approval from the Attorney General, or his or her designee, to compromise a claim or series of related claims.

(i) A request for settlement authority under paragraph (b)(1) of this section shall be directed to the Director, Torts Branch, Civil Division, Department of Justice, ("Director") and shall contain information justifying the request, including:

(A) The basis for concluding that liability exists under the FTCA;

(B) A description of the proposed alternative dispute resolution technique or process and a statement regarding why this proposed form of alternative dispute resolution is suitable for the claim or claims;

(C) A statement reflecting the claimant's or claimants' consent to use of the proposed form of alternative dispute resolution, indicating the proportion of any additional cost to the United States from use of the proposed alternative dispute resolution technique or process that shall be borne by the claimant or claimants, and specifying the manner and timing of payment of that proportion to be borne by the claimant or claimants;

(D) A statement of how the requested action would facilitate use of an alternative dispute resolution technique or process;

(E) An explanation of the extent to which the decision rendered in the alternative dispute resolution proceeding would be made binding upon claimants; and,

(F) An estimate of the potential range of possible settlements resulting from use of the proposed alternative dispute resolution technique.

(ii) The Director shall forward a request for expedited settlement action under paragraph (b)(1)(i) of this section, along with the Director's recommendation as to what action should be taken, to the Department of Justice official who has authority to authorize settlement of the claim or related claims. If that official approves the request, a written authorization shall be promptly forwarded to the requesting agency.

(2) *Delegation of Authority.* Pursuant to, and within the limits of, 28 U.S.C. 2672, the head of an agency or his or her designee may request delegations of authority to make any award, compromise, or settlement without the prior written approval of the Attorney General or his or her designee in excess of the agency's authority. In considering whether to delegate authority pursuant to 28 U.S.C. 2672 in excess of previous authority conferred upon the agency, consideration shall be given to:

(i) The extent to which the agency has established an office whose responsibilities expressly include the administrative resolution of claims presented pursuant to the Federal Tort Claims Act;

(ii) The agency's experience with the resolution of administrative claims presented pursuant to 28 U.S.C. 2672;

(iii) The Department of Justice's experiences with regard to administrative resolution of tort claims arising out of the agency's activities.

(c) *Monetary authority.* An award, compromise, or settlement of a claim by an agency under 28 U.S.C. 2672, in excess of $25,000 or in excess of the authority delegated to the agency by the Attorney General pursuant to 28 U.S.C. 2672, whichever is greater, shall be effected only with the prior written approval of the Attorney General or his or her designee. For purposes of this paragraph, a principal claim and any derivative or subrogated claim shall be treated as a single claim.

(d) *Limitations on settlement authority.*

(1) *Policy.* An administrative claim may be adjusted, determined, compromised, or settled by an agency under 28 U.S.C. 2672 only after consultation with the Department of Justice when, in the opinion of the agency:

(i) A new precedent or a new point of law is involved; or

(ii) A question of policy is or may be involved; or

(iii) The United States is or may be entitled to indemnity or contribution from a third party and the agency is unable to adjust the third party claim; or

(iv) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed $25,000 or may exceed the authority delegated to the agency by the Attorney General pursuant to 28 U.S.C. 2672, whichever is greater.

(2) *Litigation arising from the same incident.* An administrative claim may be adjusted, determined, compromised, or settled by an agency under 28 U.S.C. 2672 only after consultation with the Department of Justice when the agency is informed or is otherwise aware that the United States or an employee, agent, or cost-plus contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

(e) *Procedure.* When Department of Justice approval or consultation is required, or the advice of the Department of Justice is otherwise to be requested, under this section, the written referral or request of the Federal agency shall be directed to the Director at any time after presentment of a claim to the Federal agency, and shall contain:

(1) A short and concise statement of the facts and of the reasons for the referral or request;

(2) Copies of relevant portions of the agency's claim file; and

(3) A statement of the recommendations or views of the agency.

§ 14.7 [Reserved]

3. Section 14.7 is removed and reserved.

4. Section 14.10 is amended by revising paragraph (a) to read as follows:

§ 14.10 Action on approved claims.

(a) Any award, compromise, or settlement in an amount of $2,500 or less made pursuant to 28 U.S.C. 2672 shall be paid by the head of the Federal agency concerned out of the appropriations available to that agency. Payment of an award, compromise, or settlement in excess of $2,500 shall be obtained by the agency by forwarding Standard Form 1145 to the Claims Division, General Accounting Office. When an award is in excess of $25,000, or in excess of the authority delegated to the agency by the Attorney General pursuant to 28 U.S.C. 2672, whichever is greater, Standard Form 1145 must be accompanied by evidence that the award, compromise, or settlement has been approved by the Attorney General or his designee. When the use of Standard Form 1145 is required, it shall be executed by the claimant, or it shall be accompanied by either a claims settlement agreement or a Standard Form 95 executed by the claimant. When a claimant is represented by an attorney, the voucher for payment shall designate both the claimant and his attorney as payees; the check shall be delivered to the attorney, whose address shall appear on the voucher.

* * * * *

Dated: May 15, 1992.

William P. Barr,

Attorney General.

[FR Doc. 92-12015 Filed 5-21-92; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE TREASURY

31 CFR Part 123

Registration of Representative Offices of Foreign Banks With the U.S. Department of the Treasury

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: This document removes and reserves, effective May 22, 1992, 31 CFR part 123, concerning the registration of representative offices of foreign banks. This function has been transferred from the Department of the Treasury to the Board of Governors of the Federal Reserve System.

EFFECTIVE DATE: May 22, 1992.

FOR FURTHER INFORMATION CONTACT: James E. Ammerman, Director, Office of International Banking and Portfolio Investment, Department of the Treasury, room 5323, 1500 Pennsylvania Avenue, NW., Washington, DC 20220 (202-622-0610, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Part 123 of title 31, Code of Federal Regulations, was originally published on February 28, 1979, pursuant to section 10 of the International Banking Act of 1978 (12 U.S.C. 3107). Section 10 required that foreign banks maintaining an office, other than a branch or agency, register such office with the Secretary of the Treasury.

Statutory Authority

Section 204 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. 102-242, 105 Stat. 2292 (December 19, 1991)) amended section 10 of the International Banking Act of 1978. As amended, section 10 provides that no foreign bank may establish a representative office without the prior approval of the Board of Governors of the Federal Reserve System.

Foreign banks that wish to register representative offices in the United States should therefore contact the Board of Governors of the Federal Reserve System and refer to the proposed regulations published at 57 FR 12992 (April 15, 1992).

Special Analyses

Because this document is a rule of agency organization and management, notice and public procedure and a delayed effective date are not required pursuant to 5 U.S.C. 553(a)(2), and the provisions of Executive Order 12291 do not apply. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Drafting Information

The principal author of this document is David D. Joy, Office of the Assistant General Counsel (International Affairs), Department of the Treasury. Other personnel in the Department of the Treasury participated in the preparation of this document.

List of Subjects in 31 CFR Part 123

Foreign banking.

PART 123—[REMOVED]

Accordingly, under the Assistant Secretary's authority, 12 U.S.C. 3107, 31 CFR chapter I is amended by removing and reserving part 123.

Dated: May 14, 1992.

Olin L. Wethington,

Assistant Secretary for International Affairs.

[FR Doc 92-11936 Filed 5-21-92; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 26

[CGD 91-046]

RIN 2115-AE07

Vessel Communications Equipment; Requirement for Vessels Subject to Bridge-to-Bridge Radiotelephone Act to Carry VHF FM Channels 22A and 67

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final rule that was published Tuesday, April 21, 1992 (57 FR 14483). The rules related to a requirement for vessels subject to the Bridge-to-Bridge Radiotelephone Act to carry certain frequencies.

EFFECTIVE DATE: August 19, 1992.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Paul Jewell, Project Manager, Oil Pollution Act (OPA 90) Staff (G-MS-1), (202) 267-6746.

SUPPLEMENTARY INFORMATION:

Background

The final rule that is the subject of this correction amends 33 CFR part 26, and requires certain vessels in the navigable waters of the U.S. to be able to receive and transmit on VHF-FM channel 22A. The rule further requires certain vessels in designated waters of the Lower Mississippi River to monitor channel 67.

Need for Correction

As published the final rule contains two errors. In § 26.03(c), one phrase that described the waters where the rule applied was included inadvertently, and the paragraph is corrected by deleting the phrase. A reference in § 26.04(d) is also corrected to clarify the rule.

Correction of Publication

The publication on April 21, 1992 of the final rule (CGD 91-046), which was the subject of FR Doc. 92-9231, is corrected as follows:

§ 26.03 [Corrected]

1. On page 14485, in the third column, in § 26.03, paragraph (c), lines 6 and 7, the words "inside the boundary lines set forth in 46 CFR part 7" are deleted.

§ 26.04 [Corrected]

2. On page 14486, in the first column, in § 26.04, paragraph (d), line 6, the reference to "26.03(d)" is corrected to read "§ 26.03(e)".

Dated: May 18, 1992.

R.M. Polant,

Rear Admiral, U.S. Coast Guard, Chief, Office of Command, Control & Communications.

[FR Doc. 92-12049 Filed 5-22-92; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD 09-92-03]

Special Local Regulations: Bay City Fireworks Display, Saginaw River, Bay City, MI

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: Special Local Regulations are being adopted for the Bay City Fireworks Display on the 4th of July 1992. The fireworks display will be conducted at the south end of the Veterans Memorial Park with the fireworks being fired over the Saginaw River. Because of the unusually large number of spectator craft in the area and falling ash and debris, which could pose hazards to navigation in the area, Special Local Regulations are necessary to ensure the safety of life and property during the fireworks display.

EFFECTIVE DATE: These regulations become effective from 9 p.m. until 12 midnight (EDST) on the 4th of July 1992.

FOR FURTHER INFORMATION CONTACT: William A. Thibodeau, Marine Science Technician Third Class, U.S. Coast Guard, Aids to Navigation & Waterways Management Branch, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, Ohio 44199-2060, (216) 522-4220.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rule Making has not been published for these regulations. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received by the Commander, Ninth Coast Guard District until 26 March 1992 and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this rulemaking are William A. Thibodeau, Marine Science Technician Third Class, U.S. Coast Guard, project officer, Aids to Navigation & Waterways Management Branch and M. Eric Reeves, Commander, U.S. Coast Guard, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Bay City Fireworks Display will be conducted at the south end of the Veterans Memorial Park with the fireworks being fired over the Saginaw River on the 2nd, 3rd, and 4th of July 1992. Because of the unusually large number of spectator craft in the area on the last evening of the fireworks display, which could pose hazards to navigation in the area, the Coast Guard is establishing special local regulations for the 4th of July 1992. Any vessel desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer in Charge, U.S. Coast Guard Station Saginaw River, MI.).

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the event. This should have a favorable impact on commercial facilities providing services to the spectators. Any impact on commercial traffic in the area will be negligible.

Since the impact of these regulations is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Temporary § 100.35-T0903 is added to read as follows:

§ 100.35 T0903 Bay City Fireworks Display, Saginaw River, Bay City, MI

(a) *Regulated Area*: That portion of the Saginaw River from the Veterans Memorial Bridge to 1000 yards south of the same bridge.

(b) *Special Local Regulations*: (1) The Coast Guard will be regulating navigation and anchorage by all vessel traffic in the above area from 9 p.m. until 12 midnight (EDST) on the 4th of July 1992. When determined appropriate by the Coast Guard Patrol Commander, vessel traffic will periodically be permitted to transit through the regulated area. Commercial vessel traffic will have priority passage.

(2) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander". Any vessel desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer.

(3) The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regulated area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Any vessel so signaled shall stop and shall comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

Dated: April 23, 1992.

G.A. Penington,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 92-12048 Filed 5-21-92; 8:45 am]

BILLING CODE 4910-14-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1228 and 1253

RIN 3095-AA52

NARA Facilities; Locations and Hours of Use

AGENCY: National Archives and Records Administration.

ACTION: Final rule.

SUMMARY: This rule corrects the addresses of NARA research facilities and the hours that the facilities are open for public research. The need for the corrections was identified during a routine review of NARA regulations. The changes being made merely conform the regulations to actual practice. The recently opened Ronald Reagan Library is added to the list of Presidential Libraries in 36 CFR 1253.3. At the Franklin D. Roosevelt Library, hours are being shortened by 15 minutes; at three records centers, the hours of public access are increased by 30 minutes; and at the Gerald R. Ford Museum, Saturday and Sunday hours are added.

EFFECTIVE DATE: June 22, 1992.

FOR FURTHER INFORMATION CONTACT: Mary Ann Palmos or Nancy Allard at 202–501–5110.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act (5 U.S.C. 553(a)(2)) permits promulgation of a final rule without a public comment period for rules relating to public property. Because the changes relate directly to the use of public property and are not substantive in nature, this final rule is being published without prior notice of proposed rulemaking.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects

36 CFR Part 1228

Archives and records, Government property management.

36 CFR Part 1253

Archives and records, Federal buildings and facilities.

For the reasons set forth in the preamble, NARA is amending chaper XII of title 36, Code of Federal Regulations to read as follows:

PART 1228—DISPOSITION OF FEDERAL RECORDS

1. The authority citation for part 1228 continues to read as follows:

Authority: 44 U.S.C. chapters 21, 29, and 31.

§ 1228.150 [Amended]

2. In the list of Federal records centers in § 1228.150, the street address for the National Personnel Records Center (Military Personnel Records) is revised to read "9700 Page Avenue."

PART 1253—LOCATION OF RECORDS AND HOURS OF USE

3. The authority citation for Part 1253 continues to read as follows:

Authority: 44 U.S.C. 2104(a).

§ 1253.2 [Amended]

4. In § 1253.2, remove the term "NLN" and add, in its place, the term "NLNP".

5. In § 1253.3, paragraphs (b), (c), (e), (g), and (h) are revised and new paragraph (j) is added to read as follows:

§ 1253.3 Presidential Libraries.

* * * * *

(b) Franklin D. Roosevelt Library, 511 Albany Post Road, Hyde Park, NY 12538. Hours: 9 a.m. to 4:45 p.m., Monday through Friday.

(c) Harry S. Truman Library, U.S. Highway 24 at Delaware Street, Independence, MO 64050–1798. Hours: 9 a.m. to 5 p.m., Monday through Friday.

* * * * *

(e) John Fitzgerald Kennedy Library, Columbia Point, Boston, MA 02125. Hours: 8:30 a.m. to 4:30 p.m., Monday through Friday; 9 a.m. to 3 p.m., Saturday.

* * * * *

(g) Gerald R. Ford Library, 1000 Beal Avenue, Ann Arbor, MI 48109–2114. Hours: 8:45 a.m. to 4:45 p.m., Monday through Friday.

(h) Gerald R. Ford Museum, 303 Pearl Street, NW, Grand Rapids, MI 49504. Hours: 9 a.m. to 5 p.m., Monday through Saturday; noon to 5 p.m. on Sunday.

* * * * *

(j) Ronald Reagan Library, 40 Presidential Drive, Simi Valley, CA 93065. Hours: 9 a.m. to 4:30 p.m., Monday through Friday.

6. Paragraph (a) of § 1253.5 is revised to read as follows:

§ 1253.5 National Personnel Records Center.

(a) National Personnel Records Center (military personnel records), 9700 Page Avenue, St. Louis, MO 63132. Hours: 7:30 a.m. to 4 p.m., Monday through Friday.

* * * * *

7. In § 1253.6, paragraphs (c), (d), (h), (i), and (k) are revised to read as follows:

§ 1253.6 Federal Records Centers.

* * * * *

(c) 5000 Wissahickon Avenue, Gate 8, Philadelphia, PA 19144. Hours: 7:30 a.m. to 4 p.m., Monday through Friday.

(d) 1557 St. Joseph Avenue, East Point, GA 30344. Hours: 7:30 a.m. to 4 p.m., Monday through Friday.

* * * * *

(h) 501 West Felix Street, Building 1, Fort Worth, TX. Mailing address: P.O. Box 6216, Fort Worth, TX 76115. Hours: 8 a.m. to 4 p.m., Monday through Friday.

(i) Denver Federal Center, Building 48, Denver, CO. Mailing address: P.O. Box 25307, Denver, CO 80225. Hours: 7:30 a.m. to 4 p.m., Monday through Friday.

* * * * *

(k) 24000 Avila Road, 1st Floor—East, Laguna Niguel, CA. Mailing address: P.O. Box 6719, Laguna Niguel, CA 92607–6719. Hours: 8 a.m. to 4:30 p.m., Monday through Friday.

* * * * *

8. In § 1253.7, paragraphs (b) and (j) are revised to read as follows:

§ 1253.7 Regional Archives System.

* * * * *

(b) National Archives-Northeast Region. 201 Varick St., New York, NY 10014–4811. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone: (212) 337–1300.

* * * * *

(j) National Archives-Pacific Southwest Region. 24000 Avila Rd., Laguna Niguel, CA 92656. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone: (714) 643–4241.

* * * * *

Dated: April 30, 1992.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 92–12024 Filed 5–21–92; 8:45 am]

BILLING CODE 7515–01–M

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36 CFR Part 1258

RIN 3095–AA33

NARA Reproduction Fee Policies

AGENCY: National Archives and Records Administration.

ACTION: Final rule.

SUMMARY: This rule makes minor corrections and clarifications to 36 CFR part 1258 to reflect current NARA policies and practices concerning fees for reproductions. Two substantive changes will affect members of the public who order reproductions. First, the policy on accepting rush orders has been modified to reflect that such service is only available from Presidential libraries. It should be noted that some libraries may not be able to provide rush service under this policy. Second, two changes have been made to our payment policy. Persons who order reproductions will be allowed to pay by selected credit cards. Checks for more than $200 will no longer need to be certified.

EFFECTIVE DATE: This regulation is effective June 22, 1992.

FOR FURTHER INFORMATION CONTACT: Mary Ann Palmos or Nancy Allard at (202) 501–5110.

SUPPLEMENTARY INFORMATION: NARA published a notice of proposed rulemaking on March 20, 1992 (57 FR 9676). No comments were received. Therefore, the proposed rule is adopted without change.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Part 1258

Archives and records.

For the reasons set forth in the preamble, part 1258 of title 36 of the Code of Federal Regulations is amended as follows:

PART 1258—FEES

1. The authority citation for part 1258 continues to read as follows:

Authority: 44 U.S.C. 2116(c).

2. Section 1258.2 is amended by revising paragraphs (c)(3), (c)(6)(ii), and (c)(8) to read as follows:

§ 1258.2 Applicability

* * * * *

(c) * * *

(3) Motion picture, sound recording, and video recording materials among the holdings of the National Archives and Presidential libraries. Prices for reproduction of these materials are available from the Motion Picture, Sound and Video Branch (NNSM), National Archives, Washington, DC 20408, or from the Presidential library which has such materials (see § 1253.3 of this chapter for addresses).

* * * * *

(6) * * *

(ii) Passenger arrival lists (order form NATF Form 81)—$10.

* * * * *

(8) Orders for expedited service ("rush" orders) for reproduction of still pictures and motion picture and video recordings among the holdings of a Presidential library. Orders may be accepted on an expedited basis by the library when the library determines that sufficient personnel are available to handle such orders or that the NARA contractor making the reproduction can provide the service. Rush orders are subject to a surcharge to cover the additional cost of providing expedited service.

* * * * *

3. Section 1258.4 is amended by revising the introductory paragraph and paragraph (f), and removing paragraphs (g) through (i) to read as follows:

§ 1258.4 Exclusions.

No fee is charged for reproduction or certification in the following instances:

* * * * *

(f) For Federal records center (FRC) records only:

(1) When furnishing the service free conforms to generally established business custom, such as furnishing personal reference data to prospective employers of former Government employees;

(2) When the reproduction of not more than one copy of the document is required to obtain from the Government financial benefits to which the requesting person may be entitled (e.g., veterans or their dependents, employees with workmen's compensation claims, or persons insured by the Government);

(3) When the reproduction of not more than one copy of a hearing or other formal proceeding involving security requirements for Federal employment is requested by a person directly concerned in the hearing or proceeding; and

(4) When the reproduction of not more than one copy of a document is for a person who has been required to furnish a personal document to the Government (e.g., a birth certificate required to be given to an agency where the original cannot be returned to the individual).

4. Section 1258.12 is amended by revising paragraph (g) to read as follows:

§ 1258.12 Fee schedule.

* * * * *

(g) *Preservation of records.* In order to preserve certain records which are in poor physical condition, NARA may restrict customers to microfilm copies instead of electrostatic copies.

* * * * *

5. Section 1258.14 is revised to read as follows:

§ 1258.14 Payment of fees.

Fees may be paid in cash, by check or money order made payable to the National Archives Trust Fund, or by selected credit cards. Remittances from outside the United States must be made by international money order payable in U.S. dollars or a check drawn on a U.S. bank. Fees must be paid in advance except when the appropriate director approves a request for handling them on an account receivable basis. Purchasers with special billing requirements must state them when placing orders and must complete any special forms for NARA approval in advance.

Dated: May 4, 1992.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 92–12028 Filed 5–21–92; 8:45 am]

BILLING CODE 7515–01–M

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36 CFR Part 1260

RIN 3095–AA17

Declassification Procedures

AGENCY: National Archives and Records Administration.

ACTION: Final rule.

SUMMARY: NARA is updating its regulations relating to mandatory review by Federal agencies of national security information contained in archival records, Presidential records, donated historical materials, and the Nixon Presidential materials. The changes reflect the present practice whereby agencies return all documents reviewed for declassification action to NARA, and NARA provides the appropriate notification and declassified or sanitized reproductions to the requester. The rule also requires agencies to return a complete copy of the reviewed documents to NARA. We are also clarifying that 36 CFR part 1260 applies to Presidential records subject to the Presidential Records Act and to the Nixon Presidential materials subject to the Presidential Recordings and Materials Preservation Act.

This rule affects Federal agencies. There are no changes to the mandatory review request procedures followed by members of the public.

EFFECTIVE DATE: This rule is effective on June 22, 1992.

FOR FURTHER INFORMATION CONTACT: Mary Ann Palmos or Nancy Allard at 202–501–5110 (FTS 241–5110).

SUPPLEMENTARY INFORMATION: NARA published a notice of proposed rulemaking on March 20, 1992. No comments were received. Therefore, the proposed rule is adopted without change.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Part 1260

Archives and records, Classified information.

For the reasons set forth in the preamble, part 1260 of title 36 of the Code of Federal Regulations is amended as follows:

PART 1260—DECLASSIFICATION OF AND PUBLIC ACCESS TO NATIONAL SECURITY INFORMATION

1. The authority citation for Part 1260 continues to read as follows:

Authority: 44 U.S.C. 2104(a); Executive Order 12356 of April 2, 1982 (3 CFR 1982 Comp., p. 166).

2. Section 1260.1 is revised to read as follows:

§ 1260.1 Scope of part.

(a) Declassification of and public access to national security information and material (hereafter referred to as "classified information" or collectively termed "information") is governed by Executive Order 12356 of April 2, 1982 (47 FR 14874, 3 CFR 1982 Comp, p. 166) and by the Information Security Oversight Office Directive Number 1 of June 22, 1982 (47 FR 27836, June 25, 1982).

(b) Documents declassified in accordance with this regulation may be withheld from release under the provisions of 5 U.S.C. 552(b) for accessioned agency records; 36 CFR 1254.36 for donated historical materials; 44 U.S.C. 2201 et seq. and 36 CFR part 1270 for Presidential records; and 44 U.S.C. 2111 note and 36 CFR part 1275 for Nixon Presidential materials. Procedures for public requests for mandatory review of classified information under Executive Order 12356 are found in § 1254.46 of this chapter.

3. Section 1260.12 is amended by revising paragraph (a), the introductory text of paragraph (c), paragraphs (c)(2) and (d) and adding paragraph (e) to read as follows:

§ 1260.12 Agency action.

* * * * *

(a) Either make a prompt declassification determination and notify NARA accordingly, or inform NARA of the additional time needed to process the request. NARA will inform the requester of the agency action. Except in unusual circumstances, agencies shall make a final determination within one year.

* * * * *

(c) Return to NARA a complete copy of each declassified document with the agency determination. NARA will forward the reproduction to the requester. When a request cannot be declassified in its entirety, the agency must also furnish NARA, for transmission to the requester, the following:

* * * * *

(2) A statement of the requester's right to appeal within 60 calendar days of receipt of the denial; the procedures for taking such action; and the name, title, and address of the appeal authority.

(d) The agency appellate authority shall make a determination within 30 working days following receipt of an appeal. If additional time is required to make a determination, the agency appellate authority shall notify NARA of the additional time needed and the reason for the extension. The agency appellate authority shall notify NARA in writing of the final determination and of the reasons for any denial. NARA will provide the researcher a copy of any notifications.

(e) Furnish to NARA a complete copy of each document to be released only in part, clearly marked to indicate the portions which remain classified.

4. Section 1260.46 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1260.46 Agency action.

* * * * *

(b) Provide a brief statement of the reasons any requested information should not be declassified and return a complete copy of the reproductions to NARA; and

(c) Return all reproductions referred for consultation including a complete copy of each document which should be released only in part, clearly marked to indicate the portions which remain classified.

Dated: May 4, 1992.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 92-12025 Filed 5-21-92; 8:45 am]

BILLING CODE 7515-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73, 74, and 76

[MM Docket No. 87-268, FCC 92-174]

Broadcast Services; Advanced Television Systems

AGENCY: Federal Communications Commission.

ACTION: Policy decision.

SUMMARY: This policy decision is one segment of the second report and order further notice of proposed rulemaking (*Order/FNPRM*). The proposed rules may be found elsewhere in this issue. The Order/FNPRM, in addition to seeking comment on issues relating to the implementation of advanced television (ATV) service in this country, also sets forth several policy decisions in that regard. These actions are necessary at this time to ensure selection of the best ATV system possible, and to establish procedures that will result in a smooth, successful transition to ATV. A codification of the ATV rules with appropriate effective dates, will be published in the **Federal Register** at a later point in this proceeding.

EFFECTIVE DATE: May 22, 1992. Notice of the specific effective date of the ATV rules will be announced in the **Federal Register** when the rules are published.

FOR FURTHER INFORMATION CONTACT: Gina Harrison, Mass Media Bureau, Policy and Rules Division (202) 632-7792; Gordon Godfrey, Mass Media Bureau, Policy and Rules Division (202) 632-9660; or Alan Stillwell, Office of Engineering and Technology (202) 653-8162.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's second report and order further notice of proposed rulemaking in MM Docket No. 87-268, FCC 92-174, adopted April 12, 1992, and released May 8, 1992. The complete text of this Order/FNPRM is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, Downtown Copy Center, at (202) 452-1422, 1919 M Street, NW., room 246, Washington, DC 20554.

Synopsis of the Second Report and Order Portion of the Order/FNPRM

1. In the first report and order (First Order) in this proceeding (55 FR 39275, September 26, 1990) determined that an ATV system that transmits the increased information of an ATV signal in a separate 6 MHz channel will allow for ATV introduction in the most non-disruptive and efficient manner. ATV refers to any television technology, including High Definition Television (HDTV) and Enhanced Definition Television (EDTV), that provides improved audio and video quality or enhances the current television broadcast system. The existing broadcast system is known as NTSC, after the National Television System Committee, an industry group that developed the existing standards. In the Order/FNPRM, the Commission decides

a number of critical issues, as well as seeking further comment on others, affecting implementation of ATV service in this country.

2. The Commission, as suggested in the notice of proposed rulemaking (Notice) (56 FR 58207, November 18, 1991), restricts initial eligibility for ATV frequencies to existing broadcasters. Broadcast stations provide services unique in the array of entertainment and non-entertainment programs available free of charge to the American public. By permitting the broadcast industry to make the transition to ATV, we ensure that all competitors in the local video services market can compete on the new technological level with ATV represents and that the public continues to enjoy the benefits that flow from such competition. ATV represents a major advance in television technology, not the start of a new and separate video service. Restricting initial eligibility permits existing broadcasters to keep pace with this important technological development. *Ashbacker Radio Corporation* v. *FCC*, 326 U.S. 327 (1945), requires that the Commission give comparative consideration to all *bona fide* mutually exclusive applicants for a broadcast license, but does not preclude the Commission from setting licensee eligibility standards. Rather, the central issue is whether the nature and duration of any restriction on eligibility is in the public interest. In that regard, existing broadcasters possess know-how and experience such that their continued involvement in ATV is the most practical, expeditious, and non-disruptive way to bring improved service to the American public. Moreover, the initial eligibility restriction will be for a period of two years,—only until initial assignments have been made. It will not indefinitely impede new entrants. The table of ATV allotments may be expanded through the normal rulemaking process where there are additional channels available, and these additional channels would be open to all qualified parties. In addition, if a broadcaster fails to apply for and construct an ATV facility within the specified time, the broadcaster would lose initial eligibility for the assigned channel, which would then be open to competing applicants. Furthermore, this eligibility restriction is, in the long-run, spectrally efficient. It will allow the Commission to award existing broadcasters an additional 6 MHz "conversion channel" on an interim basis, giving existing broadcasters the opportunity to move to ATV technology. At the time of conversion to ATV, the Commission will be able to reclaim one of two 6 MHz channels—the "reversion channel"—without abruptly disenfranchising television broadcast licensees.

3. The class of existing broadcasters who would initially be eligible for ATV channels will include: (1) All full-service television broadcast station licensees, (2) permittees authorized as of the date of adoption of the notice, and (3) all parties with applications for a construction permit on file as of the date of adoption of the notice who are ultimately awarded full-service television broadcast station licenses. However, in case of insufficient spectrum to accommodate all of the groups within the class of eligibles, the Commission proposes to rank eligible parties as detailed in the summary of the proposed rules published elsewhere in this issue.

4. The Commission will award existing broadcasters an additional license for the ATV channel, in lieu of treating the addition of an ATV channel as a major modification to the NTSC license. The Commission will not permit an NTSC license to be transferred independently of the associated ATV license, or vice versa. The Commission also declines to permit use of the second channel for digital broadcast of multiple NTSC channels. The reason broadcasters are being allowed a second channel is to permit them to move to an improved technology without service disruption. If a broadcaster chooses not to broadcast in ATV, there is no reason for awarding that broadcaster an additional license.

5. An applicant for an ATV construction permit will not be allowed to retain priority eligibility status if its NTSC license is not renewed or is revoked while its ATV application is pending. If either the broadcaster's NTSC or ATV license is revoked or not renewed, their remaining license will automatically be revoked. In this way, the Commission will ensure that its goals in awarding broadcasters a second channel are preserved and that its goals in revoking or not renewing a license are not undermined. The Commission recognizes, however, that permitting an unpaired ATV channel to broadcast during the transition to full ATV conversion implicates another objective, that of spectrum efficiency, by permitting the recapture of the NTSC channel. Thus, the Commission will consider permitting the voluntary surrender of an NTSC channel by a broadcaster awarded a corresponding ATV channel on a case-by-case basis, considering in particular whether ATV receiver penetration in the affected community demonstrates that consumers largely will not be prematurely deprived of the use of their NTSC receivers. The Commission will of course permit a party awarded an ATV license not associated with an NTSC channel pair to broadcast only on its assigned ATV channel. Its broadcast helps spur new entrants into the field, enhancing diversity, and helps spur ATV implementation by expanding the broadcast outlets available to the public.

6. The Commission further finds that once ATV allotments for initially eligible parties are made, any qualified party may file a petition for rulemaking to modify the ATV allotment table to add new frequencies where they are technically feasible. Additionally, any qualified applicant, not just existing broadcasters, may apply for an ATV frequency when an NTSC licensee fails to apply for and construct an ATV facility or to apply within the required time. Existing broadcasters who fail to apply or construct in the initial priority stage will be allowed to apply for any channels which subsequently remain available on the same basis as any other qualified parties and will be given no special priority.

7. Beyond pairing ATV channels to those awarded NTSC authorizations in the interim period prior to the time initial ATV assignments are made, the Commission declines to establish any new priorities for eligibility once initial ATV allotments are made. The Commission is reluctant to expand restricted eligibility beyond those granted priority eligibility in the initial stages of assignment, to include those that, while offering valuable services in other respects, do not appear as a class likely to spur ATV implementation in the same fashion as existing broadcasters. Thus, the Commission declines request to afford low power and translator service or noncommercial interests priority status at such point, as such restriction will narrow the group of potentially ready, willing and able entrants who may seek to apply for and deliver ATV service to the public expeditiously. After the time for applying for an ATV channel has passed—two years after the date adoption of an ATV standard or of a Final Table of ATVB Allotments becomes effective, whichever is later—eligibility will be completely unrestricted.

8. Also ATV licenses will be subject to competing applications filed during the appropriate renewal window. As proposed in the notice, ATV licenses will be issued for periods concurrent with the license of the associated NTSC

station (if any). License periods for all ATV licenses, whether or not associated with an NTSC channel, will be determined in accordance with 47 CFR 73.1020.

9. As the Notice proposed, the Commission will suspend application of the television multiple ownership rules, 47 CFR 73.3555, for ATV stations on a limited basis. Existing licensees that are awarded an additional ATV channel will be permitted to hold both their NTSC and ATV licenses, even though their signals overlap, and group owners will be permitted to hold both NTSC and paired ATV channels, even though nationwide ceilings may be exceeded, until such time as existing licensees are required to convert to ATV service exclusively. The acquisition or award of an ATV channel that is not part of an ATV/NTSC pair, however, will still be subject to the multiple ownership rules. Limited suspension of the multiple ownership rules is an essential component of the Commission's regulatory approach to ATV implementation, and it is therefore adopted. (It is noted that the Commission is statutorily prohibited from expanding any of its appropriated funds "to repeal, to retroactively apply changes in, or to begin or continue a reexamination of the rules and policies extablished to administer such rules of the Federal Communications Commission as set forth at § 73.3555(c) of title 47 of the Code of Federal Regulations." Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992, Public Law No. 102–140, 105 Stat. 782, 797 ((1991)). Section 73.3555(c) is the Commission rule prohibiting ownership of a broadcast station and a newspaper in the same market. This prohibition on its face does not apply to limited suspension of the broadcast/newspaper cross-ownership rule. Moreover, there is no indication that Congress intended to preclude grandfathered television/newspaper combinations from participating on the same basis as all other television licensees in the transition to ATV.)

10. The notice proposed that existing broadcasters have the right to apply for a particular ATV frequency on a priority basis for three years from the time that an ATV allotment table is adopted. The notice also proposed to apply a two-year restriction on the time within which a broadcaster must construct a new ATV facility or forfeit its construction permit, analogous to the two-year period applicable today. The Commission believes that an adjustment should be made to the relative lengths of the application and construction periods from those which we proposed. Upon further reflection, the Commission finds that broadcasters do not need a full three-year application period to arrange their financing and plan their facilities from the time an order selecting an ATV system becomes effective. Rather, it appears that a two-year application period will be sufficient. With adoption of this decision, broadcasters will have ample notice of the precise deadlines applicable to them before the application period begins to run. Broadcasters obtaining an assignment as a result of negotiations with other parties in the market (proposed channel assignment approaches are summarized in the proposed rules, published elsewhere in this issue having explored potential implementation difficulties before agreeing to a pairing plan, should not need an extended time for submitting an application for that channel. Moreover, broadcasters who are unable to reach a negotiated settlement will have an incentive under the first-come, first-served approach to apply for an ATV channel early. Accordingly, adopting a two-year application period should not impose an undue burden on existing broadcasters. Moreover, a two-year period will further ensure that incumbent broadcasters take advantage of their initial eligibility priority in a timely fashion and that ATV channels are opened up to new entrants within a reasonable period of time.

11. At the same time, the Commission recognizes that broadcastes will be in the vanguard of those implementing ATV technology. As a result, the professional equipment for transmission and production that they require will have to be newly developed. Licensees are therefore likely to need some time to solve the unique problems that pioneering construction of an ATV facility may raise. Accordingly, broadcasters will be provided an additional year from that proposed, for a total of three years, for construction of an ATV facility. In light of the modification made to the application period, this additional year for construction will not delay the ultimate availability of ATV service to the public.

12. This decision on application/construction periods gives broadcasters ample notice of the time periods that will apply. Those broadcasters who do not apply and construct within this time and who fail to obtain an extension of time, will lose their initial eligibility for an ATV frequency, although they may apply at a later time for an ATV channel, should one be available, on an equal basis with other applicants.

13. The Commission also clarifies that it intends to apply its existing definition of "construction" in this context, so that a broadcaster will be deemed to have constructed an ATV facility if it has the capability of emitting ATV signals, regardless of the source of these signals (*e.g.*, local origination, pass-through of a network signal, or other signal). Studies of the cost of ATV broadcast implementation indicate that studio conversion costs are likely to be substantial. By leaving the timing of full studio conversion more to the broadcaster's judgment, broadcasters will be able to "phase-in" full ATV implementation as their individual circumstances and markets permit. At the same time, requiring transmission capability by a date certain ensures that valuable spectrum will not lie fallow and that the benefits of technological advances will be made available to the public promptly.

14. The Commission underscores that the ATV application/construction time period will begin to run from the date that a report and order adopting a Table of Allotments or selecting an ATV system becomes effective, whichever is later. It is expected that many of the asserted uncertainties regarding ATV construction that are raised today will be clarified at the point an ATV system is actually selected. For each individual applicant, the construction period will begin to run from the actual time that a construction permit is awarded. In this way, the Commission may appropriately compensate for time needed for application processing by Commission staff. Moreover, the Commission can ensure that those awarded frequencies at a relatively early point also complete construction at a commensurately early date. (The Advisory Committee, in its Fifth Interim Report, suggests that the Commission process applications from large markets first. A decision on this issue is deferred until the Commission reaches a decision on an allotment/assignment methodology.)

15. In addition to the additional year allowed for construction beyond that currently permitted in the Commission's Rules, the Commission concludes that its existing policies regarding extensions of time will afford broadcasters adequate flexibility to cope with unforeseen implementation problems. See 47 CFR 73.3534. Specifically, the rules permit extensions of time to construct where: (1) Construction is completed and testing is underway; (2) substantial progress in construction has been made; or (3) reasons clearly

beyond the permittee's control have prevented progress in construction, but the permittee has taken all possible steps to expeditiously resolve the problem and proceed with construction. The Commission will apply these rules to grant extensions in appropriate circumstances. The Commission also intends to adhere to its existing policies defining "substantial" progress in construction. See 47 CFR 73.3534(b)(2).

16. The present Commission rules do not generally permit an extension for inability to obtain financing. Contrary to the views of some commenters, the Commission sees no reason to modify this rule for initial ATV implementation or to defer a decision on construction periods based on concerns about future ability to obtain financing. Adequate financing is critical to prompt construction. One reason for assigning ATV channels to existing broadcasters is the belief that they are the group most likely to have the incentive and the resources to implement ATV in an expeditious fashion. A broadcaster's inability to obtain adequate capital will only be considered relevant under extraordinary circumstances.

17. The Commission also declines to make ATV receiver penetration a factor in granting construction permit extensions or extending application/construction time beyond five years. The availability of ATV programming to the public is likely to be a major factor driving ATV receiver penetration. Unless broadcast stations are transmitting ATV programs, such programming is unlikely to be available in sufficient quantity to stimulate receiver sales. Therefore it appears that broadcast transmission is likely to be a precondition for substantial receiver penetration. Thus, the Commission cannot allow receiver penetration levels to be a factor justifying a failure to construct an ATV station in a timely fashion or moving the Commission to extend generally the application/constuction time period.

18. The Commission shares commenters' concerns that it is essential that an allotment/assignment process be in place at the time the ATV standard is adopted, and that the allotment and assignment methodology be defined as rapidly as possible. The Commission intends to address all allotment matters related to the introduction of ATV in a separate Further Notice of Proposed Rule Making in June of this year. This action will set forth proposed technical and policy principles and scientific and engineering concepts to be used in the allotment of ATV channels. A draft Table of Allotments based on these principles and concepts will also be included. The Commission is aware that the Advisory Committee has also undertaken work in the allotment and assignment areas. To the extent that this work becomes available, the Commission will take it into consideration in developing allotment and assignment proposals.

19. Based on the comments received in response to the notice, the Commission concludes that it should use vacant noncommercial allotments for ATV, only when there is no feasible alternative for assigning an ATV channel to an existing broadcaster. The Commission also decides that it will leave vacant noncommercial allotments without an ATV channel pair only when there is no feasible alternative for assigning an ATV channel to an existing broadcaster. The Commission would conduct such an evaluation of feasible alternatives on a case-by-case basis, including consideration of other practicable engineering solutions. The Commission will in no event use a vacant VHF channel allotment reserved for noncommercial purposes for commercial ATV. Moreover, only as a last resort will the Commission delete a reserved channel, or use for commercial purposes an ATV channel that would otherwise be paired with a vacant noncommercial allotment, where that channel or allotment would be necessary to provide first noncommercial full-service Grade B coverage to community. If it is impossible to pair an ATV channel with a vacant noncommecial allotment, the Commission will protect the vacant allotment with both NTSC and ATV separation requirements, provided that ATV spacing is, as anticipated, less that or equal to NTSC spacings.

20. Commenters also suggest that the Commission designate relinquished NTSC channels as pairs for vacant noncommercial allotments. However, at the point that NTSC channels must be relinquished by all broadcasters—the point of conversion to ATV—the transitional channel pairing scheme will have served its purpose and will be ended. Thus, there will be no need for pairing these noncommercial reserved channels at this point. Noncommercial as well as commercial stations will have returned to broadcasting on a single 6 MHZ channel.

21. Next, the Commission considers the effect of ATV implementation on low-power television (LPTV) and translator services. An LPTV is a broadcast television facility with secondary service status that is authorized at maximum power levels lower than those of full-service television stations. Lower power stations may retransmit the programs of a full-service station and may originate programming. Translators are low-power stations that do not originate programming in excess of 30 seconds an hour and act to retransmit the signals of a full-service station. 47 CFR 74.701 (a), (f).

22. There is no doubt that these services provide important benefits, serving minority and specialized audiences, providing locally-based services to communities, and generally furthering diversity. On the other hand, the Commission is in the process of enabling full-service stations that, by definition, reach much wider audiences than LPTVs and translators, to bring ATV, a major technological advance in broadcasting, to these audiences on a second channel. In order to do so, these full-service stations will temporarily need a substantial allocation of spectrum. As the notice stated, it will be a challenge to provide all full-service licensees with an additional 6 MHz for ATV. If ATV is to succeed, it will be necessary for new ATV assignments to displace LPTV and translator stations to some degree in the major markets, although the impact is likely to be less severe in rural areas where there are fewer full-service stations. The Commission thus agrees with those who believe that ATV implementation will require that LPTVs and translators, as secondary services, yield to new full-power ATV stations. The Commission thus decides to continue LPTV and translators' secondary status vis-a-vis ATV stations.

23. The Commission will not deviate from established precedent and afford a preference to translators over low power stations should displacement be required. The present rules balance the goals of maintaining translator service and encouraging new low power originating services. The Commission finds that maintaining such a balance is in the public interest. The present rules also make no distinctions among low power service applicants based on the content of their programming. The Commission finds that this proceeding is not the proper procedural context for development of a preference for foreign-language low power stations or that the record in this proceeding is sufficiently developed to permit adoption of such a rule, as some parties request.

24. Based on staff and Advisory Committee technical studies, the Commission finds that there is insufficient spectrum to permit LPTVs and translators to be included in the

class of broadcasters initially eligible for an ATV frequency on either a primary or secondary basis or to factor in LPTV displacement considerations in making ATV assignments, as several parties argue. Because LPTVs and translators are secondary to full-service stations, it would be inappropriate to require full-service stations displacing low-power service stations to compensate them, as some parties suggest.

25. At the same time, the Commission recognizes that LPTVs and translators may have a role in implementing ATV. Some parties suggest that the nature of their operations may make the low-power television station transition to ATV more economical and expedient than that of full-service stations. Moreover, given the absence of multiple ownership restrictions on low-power stations, they will be free to add a second low-power ATV channel, provided no unacceptable interference to full-service stations or other protected operations occurs. In addition, LPTV and translator stations will be permitted to broadcast in either the ATV or NTSC mode once ATV implementation begins.

26. Recognizing the significant benefits that low power services bring to the public, the Commission will, as some suggest, take such steps to mitigate the likelihood and effects of displacement as are consistent with the other objectives in this proceeding. The Commission thus will continue to permit a low power TV station displaced by a full-service station to apply for a suitable replacement channel in the same area without being subject to competing applications. It will also continue the present policy of permitting low power service stations to operate until a displacing full-service ATV station is operational. The Commission also will continue to allow displaced LPTVs to migrate to vacant NTSC channels, including vacant reserved noncommercial channels. The Commission stresses, however, that low power television's use of such vacant spectrum is secondary only. Moreover, LPTVs and translators will continue to be allowed to file non-window displacement relief applications to change their operating parameters to cure interference to an ATV station. The Commission tentatively agrees with arguments that certain specific NTSC interference protection rules could be re-evaluated and may afford low-power service interests some measure of relief. The Commission plans to initiate a separate proceeding to consider such changes. It declines, however, suggestions to place additional requirements on full-service stations in order to minimize the likelihood of interference and displacement to LPTVs and translators. It is the responsibility of the low-power television service, as a secondary service, to yield to full-service stations where a conflict arises.

27. The Commission appreciates the difficulties that broadcasters are likely to face in meeting their auxiliary service needs for both an ATV and an NTSC channel. Broadcast auxiliary spectrum is used generally by television stations to convey their signals on a point-to-point basis from fixed or mobile facilities. Stations use this spectrum for such purposes as studio-to-transmitter links (STLs), and for *ad hoc* links between remote locations and the studio or transmitter. As the Advisory Committee observes, the broadcast auxiliary spectrum is already congested, most severely in major markets, where ATV implementation will first occur. The Commission has, however, taken pains to protect broadcast auxiliary spectrum allocations in the 1990–2110 MHz band, despite intense, competing need for additional spectrum by new services. Moreover, there is no additional spectrum at hand for broadcast auxiliary purposes. Additional capacity may have to be obtained by, for example, reconfiguring existing microwave links for greater efficiency, making greater use of higher frequency bands, use of optical fiber and combined optical fiber-microwave links, and employment of digital compression techniques to allow carriage of multiple NTSC signals in a single channel. The Commission also suggests that broadcasters may increase their use of any existing available UHF spectrum for fixed auxiliary broadcast use. In a related matter, the United States Advanced Television Systems Committee (ATSC) requests that the Commission defer a decision on broadcast auxiliary issues until certain Advisory Committee studies are completed. The Commission considered such studies in the Order/FNPRM, however, and such a deferral is therefore unnecessary.

28. In order to ensure an adequate number of ATV channels in large border areas, some commenters urge that the Commission initiate and/or intensify coordination efforts with Canada and Mexico. Both the Advisory Committe and the Commission Staff have begun informal discussions with Canada and Mexico. The Commission plans to intensify these efforts and encourages the Advisory Committee to do the same.

29. Some commenters urge the Commission to terminate Gen. Docket No. 85–172, which proposed further sharing, or reallocation, of UHF channels in eight large urban areas to private land mobile service. The Commission suspended action in that docket following initiation of this proceeding, out of concern that spectrum options for ATV not be adversely affected. Those urging termination argue that the continued existence of Docket No. 85–172 creates an aura of uncertainty regarding the Commission's commitment to ATV, and given the potentially tight spectrum conditions for ATV in certain markets, can serve no useful purpose. The Commission finds, however, that it is premature to terminate Gen. Docket 85–172 at this time, particularly in advance of a final allotment plan confirming predictions about spectrum needs for ATV. The Commission thus declines to terminate Gen. Docket No. 85–172.

30. The Commission also finds that requests for reallocation of assertedly lightly used land mobile channels for television broadcast use are beyond the scope of this proceeding. These requests are properly the subject of a separate petition for rule making. Their consideration in the instant docket would lead to undue delay and complication of the numerous and significant issues directly raised by the advent of ATV.

31. Most, although not all, of those commenting on the issue of a timetable for conversion to ATV, agree in principle with the proposal in the notice to require broadcasters to "convert" entirely to ATV—*i.e.*, to surrender one 6 MHz channel and broadcast only in ATV, once ATV becomes the prevalent medium. Requiring the surrender of the NTSC channel will promote the introduction of ATV and maximize ATV coverage areas. Although there is a benefit to affording the public a choice between ATV and NTSC programming during the transition years, suggesting that such a choice will remain permanently available would undoubtedly inhibit the growth of ATV. More significantly, there are likely to be competing uses for this spectrum which will have to be addressed later in this proceeding. Thus, contrary to requests that the Commission defer addressing the issue of conversion, the Commission puts broadcasters on notice that when ATV becomes the prevalent medium, they will be required to surrender one of their two broadcast channels, and cease broadcasting in NTSC.

32. As proposed, the Commission will cease issuing new NTSC licenses, including noncommercial NTSC licenses, once the assignment of ATV channels to existing NTSC licensees has

been completed, *i.e.*, two years after an ATV standard or a final Table of ATV Allotments is effective, whichever is later. (The Commission does not plan, as suggested in the comments, to lift the current freeze on NTSC applications in major markets.) From that point forward, in order to begin the transition to ATV, the Commission will issue new television broadcast licenses for ATV transmission only. The Commission does not agree with arguments that by ceasing to issue noncommercial NTSC licenses, it is defeating the purpose of pairing, where feasible, ATV channels with vacant noncommercial allotments. That pairing permits noncommercial applicants to continue applying for NTSC or ATV frequencies until the point that ATV assignments are made. Once that point is reached, noncommercial applicants will be able to apply for the ATV channels that were paired with the former NTSC noncommercial reserve. In addition, should an existing broadcaster have forfeited its initial eligibility, that broadcaster will be allowed to apply, on an equal basis with other qualified parties, for an available ATV channel or ATV allotment that will enable it to switch directly to an ATV channel at the time of conversion. If it is technically possible, a broadcaster may also use its existing NTSC frequency for this purpose. Finally, the Commission will permit modifications to NTSC facilities after adoption of a final Table of Allotments for ATV channels provided they comply with technical criteria for the protection of ATV vacant allotments, applications and assignments.

33. The Commission concludes that it will be necessary to set a firm date for conversion to ATV. Use of a firm date would keep administration simple, assure progress toward feeling spectrum on a timely basis and give broadcasters, consumers and manufacturers the benefits of a clearly defined planning horizon. The Commission's tentative conclusions and proposals regarding such conversion date are summarized elsewhere in this issue.

34. Regarding switching frequencies, the Commission finds that stations cannot be permitted to switch their NTSC and ATV channels on an individual, voluntary basis. As the *Notice* states, it is likely that ATV–NTSC co-channel spacing will be shorter than ATV–ATV and NTSC–NTSC co-channel spacing. Unless all stations with co-channel facilities at less than the minimum ATV–ATV spacing in a given area switch together, switching ATV and NTSC frequencies may result in ATV stations with service areas permanently much smaller than would have been the case if switching had not been permitted. Accordingly, the Commission will permit switching of ATV and NTSC frequencies on a case-by-case basis, only after careful coordination insuring that other ATV service areas are not adversely affected and no other negative interference consequences result, and assuming that such switching harmonizes with any long-range plan for use of television spectrum that the Commission develops. The Commission decides to wait until ATV implementation is underway and it has practical experience on which to base its judgments, to decide whether, at some future point, all broadcasters should be required to switch back to their original (NTSC) frequencies, one of the proposals suggested in the notice.

35. The notice stated the Commission's belief that ATV implementation should be structured to protect the existing investment in consumer equipment so that consumers are not prematurely forced to purchase new receivers to enjoy top quality over-the-air television. The notice stated that a simulcast requirement (under which some amount of programming would have to be broadcast simultaneously over both the NTSC and ATV channels) would be one means of achieving this goal, and sought comment on the degree of simulcasting, if any, that should be required and on whether there were any other equally effective ways to protect investment in NTSC equipment. After reviewing the comments on this issue, the Commission concludes that it should require 100 percent simulcasting of the programming on the ATV channel at the earliest possible point. A simulcast requirement would ensure that consumers are not prematurely deprived of the benefits of their existing television receivers. It will also help the Commission ultimately to reclaim one 6 MHz channel at the time of conversion to ATV, by minimizing broadcaster and consumer reliance on the ATV channel as a separately programmed service. (Thus, the Commission firmly disagrees with suggestions that it should continue to permit NTSC stations to continue indefinitely and with different programming.) Simultaneous broadcasting, should also help to reduce the cost of receivers by lessening the need for dual mode (NTSC/ATV) receivers, and thus help spur ATV receiver penetration. The Commission's tentative conclusions and proposals regarding how to implement a simulcast requirement are summarized elsewhere in this issue.

36. In a related matter, Capital Cities/ABC, Inc. requests suspension or waiver of Commission rules governing the network affiliate relationship and contractual negotiations (47 CFR §§ 73.658 (a), (d), and (e)) to permit a network to link affiliate clearance or preemption of a program in one format (NTSC or ATV) to clearance or preemption in the other format. These particular rules are already under review in a pending Commission proceeding, MM Docket No. 91–221, addressing the need to reform the existing broadcast rules. The Commission will therefore not consider relaxation of these in the instant docket at this time. After a decision in MM Docket No. 91–221, if necessary, the Commission will consider in this rulemaking any specific ATV-related questions that remain.

37. With respect to patent licensing and related issues, the notice stated the Commission's belief that in order to generate the volumes of equipment necessary for ATV service to develop, the patents on any winning ATV system would have to be licensed to other manufacturing companies on reasonable terms. The ATV testing procedures already require proponents to submit, prior to testing, a statement that any relevant patents they own would be made available either free of charge or on reasonable, nondiscriminatory terms. Contrary to the views of those advocating greater regulatory involvement, the Commission finds that these requirements adequately safeguard the consumer and competitive interests in reasonable availability of relevant patents, so far as is currently possible. Moreover, a winning proponent's adoption of reasonable patent procedures is critical to ATV implementation and to the consumer and competitive interests implicated. When an ATV system is officially selected, therefore, the Commission will condition that selection on the proponent's commitment to reasonable and nondiscriminatory licensing of relevant patents. Some parties suggest that third party patent rights may complicate patent licensing issues. Although the Commission declines to address this question in the absence of a particular factual context, it observes that, to the extent a winning proponent has obtained sub-licensing rights from a third party, such sub-licensing would also be expected to occur on reasonable, non-discriminatory terms. Finally, the Commission recognizes that prompt disclosure of a winning system's technical specifications may be necessary to permit the mass production

of ATV equipment in a timely fashion. The Advisory Committee indicates that industry efforts are underway to designate a standards-setting group to undertake the information of such specifications. The Commission encourages such efforts and will monitor the progress of this industry activity.

38. Addressing the issue of compatibility, the notice asked to what extent the Commission could or should encourage compatibility of a terrestrial broadcast ATV system with other media, including other video delivery media, and with computer applications and other forms of data transmission. The Advisory Committee and other bodies, including the Electronics Industries Association, Society of Motion Picture and Television Engineers (SMPTE), and the ATSC, are presently addressing these issues. The Advisory Committee's Planning Subcommittee Working Party 4 (PS/WP4) plans to initiate a case-by-case analysis of each proponent system's suitability "for cost-effective, optimum quality interoperation with alternative delivery media and applications, including analysis of economic and social impacts." This plan appears as adequate an answer to commenters' requests for a case-by-case evaluation of ATV systems' compatibility as is possible at this stage. PS/WP4 has also recommended the adoption of headers and descriptors. (A header is a sort of digital label which identifies the type of data (*e.g.*, still image, audio, type of auxiliary information) and type of processing performed on the data (*e.g.*, video format compression, conditional access technique if any) which the signal is transmitting. A descriptor details the technical characteristics of the data (and any processing done thereon) being sent. Headers and descriptors may be useful in achieving compatibiity by permitting different amounts and kinds of data to be used by different applications and media.) PS/WP4 is monitoring the work of SMPTE, which has recently completed a feasibility study on ways to implement this concept, and plans further studies in this area. These efforts appear to respond as adequately as is feasible at this procedural juncture to those who advocate a universal self-identifying header mechanism to be incorporated into an ATV standard. Moreover, the Advisory Committee selection process already takes compatibility concerns into account. Interoperability and extensibility are among the ten selection criteria the Advisory Committee will employ. The Commission encourages the ongoing work of the Advisory Committee and the other organizations noted above on compatibility issues. These industry efforts are critical to solving and achieving consensus on the numerous and complicated questions the Commission's goal of approaching compatibility across media and over time generates. The Commission does not believe it is necessary or productive at this stage in the progress of such activities to intervene, as some suggest. The Commission also does not believe it is appropriate at this point in time to endorse specific definitions for compatibility-related attributes in an ATV system proposed by the Committee for Open High Resolution Systems (COHRS). (These attributes are interoperability, scalability, extensibility and harmonization.)

39. The Commission agrees with those commenters who recognize that for ATV to succeed, broad complementary ATV applications with other video media must exist. The Commission does not, however, believe it is appropriate at this stage of the Advisory Committee's ongoing work, and with systems still being tested and developed, to consider such issues. To the extent commenting parties may be advocating our consideration of a system different from any of those on the current test schedule, they should respond specifically to our request for comment on the Advisory Committee's report on new developments. (See the proposed rules portion of the *Order/FNPRM* published elsewhere in this issue.

40. Cable interests raise concerns regarding effective transmission of ATV over cable. The Commission agrees that cable delivery of a quality ATV signal is critical to public acceptance of ATV, and also believes, that as a practical matter, any ATV system selected must support ATV carriage over cable systems. Through its sponsorship of Cable Television Laboratories, Inc. (CableLabs) (the organization which is conducting tests of the cable-related performance of the proponent ATV systems, will be undertaking the cable field tests at the same time broadcast field tests are conducted, and will be the primary organization responsible for analyzing the cable test results) the cable industry has taken steps to ensure that the selected broadcast transmission system is compatible with effective cable carriage of the ATV signal.

41. The National Cable Television Association and the ATSC both contend that the ability of proponent ATV systems to encrypt (scramble) cable programming remains an outstanding issue. PS/WP4 has been assigned to study compatibility questions relating to non-broadcast media, including cable. As discussed above, this group recently recommended use of headers and descriptors to convey both video and non-video information, an approach that would appear to facilitate transmission of encryption and decryption information. The Commission asks the Advisory Committtee to study and report on the ability of the proponent systems to encrypt cable programming.

42. To address satellite compatibility with ATV, the Commission first recognizes that satellites transmit in a different operating environment, one with bandwidth requirements and interference problems different from those experienced in terrestrial broadcasting. It is neither necessary nor practicable to restrict satellite ATV transmission to the standards set for terrestrial ATV. Members of the Satellite Broadcasting and Communications Association (SBCA) are actively participating in PS/WP4. This SBCA representation has helped the Advisory Committee to devise a plan for establishing minimum performance criteria for satellite applications that coordinates with the overall timetable for recommendation of an ATV system. The Commission encourages such efforts and believes that, contrary to some suggestions, they obviate the need for further Commission action at this time. With respect to ATV compatibility with VCRs, the Commision finds that it is premature to propose specific VCR standards at this time. The Commission encourages the Advisory Committee, through PS/WP4, to address this question at the appropriate time.

43. The Commission next concludes that the Television Decoder Circuitry Act of 1990 (Decoder Act), 47 U.S.C. 303(u), 330(b), and Congressional intent underlying that statute, require that closed captioning services continue to be available during the transition from NTSC to ATV and beyond. The Commission directs the Advisory Committee, in recommending an ATV standard, to take proper account of Decoder Act requirements, both as to closed captioning of simulcast or other HDTV program transmissions, and to the general closed captioning capability of ATV receivers. The National Captioning Institute, Inc. suggests various enhancements to closed captioning capability, including flexible screen placement. Flexible screen placement is already a requirement in 47 CFR 15.119(d)(1). Television receivers sold after July 1993 must meet this and other standards set forth in the Commision's Rules. The Commission expects any ATV system selected

would, at a minimum, maintain such existing closed captioning standards. Once an ATV system is selected, the Commission plans to initiate a proceeding to adopt appropriate changes to the closed captioning rules.

44. Finally, the Commission reviews extensibility concerns. Extensibility or, in general, the ability of an ATV system to adapt to future improvements without creating obsolescence, is one of the ten selection criteria which the Advisory Committee is currently applying. The Advisory Committee is in the process of refining the concept of extensibility and relating it to each of the proponent systems. While the focus until now has been on the video aspects of ATV, audio is another essential component of this new technology. The Commission thus directs the Advisory Committee, consistent with the overall implementation plan, to address any new audio developments such as those discussed by the ATSC and detailed in the full text of the *Order/FNPRM*, as well as ASTC proposals for flexible audio and data, and its selection of an ATV system. The Commission also asks the Advisory Committee to consider any analogous instances of extensibility that arise.

45. For the reasons given above, the Commission finds that the policies adopted in the Order/FNPRM will further the public interest by helping to bring the technological developments of advanced television service to the American public in an expeditious and non-disruptive fashion.

Final Regulatory Flexibility Analysis Statement

46. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that this decision will impact a substantial number of small entities because the actions taken in this decision and in other decisions in this proceeding will result in the selection of an ATV system and standard, in specifications for production of equipment to both transmit and receive ATV signals, and in the rules regulations governing transmission of ATV signals and operation of ATV stations. The full text of the Final Regulatory Flexibility Analysis Statement may be found in appendix B of the complete text of the Order/FNPRM.

47. The Secretary shall send a copy of this report and order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.*, (1981)).

48. Accordingly, *It is therefore ordered* That pursuant to the authority contained in sections 4 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303, this second report and order/further notice of proposed rulemaking is adopted.

List of Subjects

47 CFR Part 73

Television broadcasting.

47 CFR Part 74

Experimental, auxiliary, and special broadcast and other program distribution services, Television broadcasting.

47 CFR Part 76

Cable television.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc 92–11731 Filed 5–21–92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 920522–2122]

Reef Fish Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule

SUMMARY: NMFS recalculates the annual commercial quotas for shallow-water and deep-water groupers in the Gulf of Mexico reef fish fishery using a revised conversion factor for landings, and increases the annual commercial quota for shallow-water groupers from 8.2 to 9.8 million pounds (3.7 to 4.4 million kilograms) in accordance with the framework procedure of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The intended effect is to make shallow-water groupers available to the fishery in an amount supported by the red grouper stock assessment. It is expected that this action will reduce fishing pressure on the deep-water grouper resource and thereby reduce the threat of overfishing.

EFFECTIVE DATES: June 22, 1992.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813–893–3161.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP prepared and amended by the Gulf of Mexico Fishery Management Council (Council), and its implementing regulations at 50 CFR part 641, under the authority of the Magnuson Fishery Conservation and Management Act.

Annual commercial quotas were established (1) for deep-water groupers, combined, of 1.8 million pounds (0.8 million kilograms); and (2) for shallow-water groupers, combined, of 9.2 million pounds (4.2 million kilograms). (For 1991, the quota for shallow-water groupers was increased to 9.9 million pounds (4.5 million kilograms)). Deep-water groupers are yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, speckled hind, and, after the commercial quota for shallow-water grouper is reached, scamp. Shallow-water groupers are all other groupers, including scamp before the commercial quota for shallow-water groupers is reached, but excluding jewfish. The grouper quotas are expressed in terms of whole weight, historically calculated by converting the gutted weight of grouper to whole weight by multiplying the gutted weight by 1.18. Recent studies of landings indicate that a conversion factor of 1.05 is more appropriate. Using the revised conversion factor, the annual commercial quotas for deep-water groupers and shallow-water groupers are recalculated to be 1.6 and 8.2 million pounds (0.7 and 3.7 million kilograms), respectively. All quotas discussed in the **SUMMARY** and hereinafter are based on the revised conversion factor.

In accordance with the framework procedure of the FMP, the Council recommended and NMFS published a proposed rule to increase the recalculated annual quota for shallow-water groupers by 1.6 million pounds (0.7 million kilograms) to 9.8 million pounds (4.4 million kilograms) commencing in 1992 (57 FR 5994; February 19, 1992). The background and rationale for the recommended change was included in the proposed rule and is not repeated here.

Comments and Responses

One individual supported the increase in commercial quota and suggested additional changes in the reef fish management program. Two individuals opposed the increase, one of whom also suggested additional changes in the reef fish management program.

Comment: The commenter, while supporting the 1.6-million-pound adjustment, suggested: (1) Closing the red snapper fishery 2 weeks of each month; (2) restricting vessels to fishing grounds near their home ports to relieve economic instability and protect the

resource; and (3) prohibiting issuance of reef fish commercial permits to shrimp trawl vessels.

Response: While these management measures recommended by the individual may have merit, they are beyond the scope of this regulatory amendment. The Council may consider the recommendations in future amendments to the FMP.

Comment: Two individuals opposed the 1.6-million-pound adjustment as contrary to the conservation ethic. One suggested (1) closure of the commercial fishery to enhance protection; and (2) substitution in the market place of grouper produced by aquaculture.

Response: The Council recently reviewed the 1991 stock assessment for red grouper, a species that constitutes the majority of the commercial harvest of shallow-water grouper and for which data are most complete. The assessment indicated a spawning potential ratio for red grouper well above the 20 percent goal established in the FMP, and the Council concluded that the shallow-water grouper commercial quota could be increased to 10.0 million pounds without danger of overfishing. Accordingly, the objection to the increase is not supported by the available data. The management changes regarding closure of the commercial fishery and substitution in the market place of grouper produced by aquaculture are beyond the scope of this final rule.

Changes From the Proposed Rule

Since this action was initiated as a proposed rule, Amendment 4 to the FMP has been approved and implemented (57 FR 11914; April 8, 1992). Accordingly, the specification of deep-water and shallow-water groupers in this final rule employs the revised language of Amendment 4 regarding scamp and identifying quotas.

Other Matters

This action is authorized by the FMP and complies with E.O. 12291.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 18, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 641 is amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 641 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 641.25, paragraphs (b) and (c) are revised to read as follows:

§ 641.25 Commercial quotas.

* * * * *

(b) Deep-water groupers, i.e., yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, speckled hind, and, after the commercial quota for shallow-water grouper is reached, scamp, combined—1.6 million pounds (0.7 million kilograms).

(c) Shallow-water groupers, i.e., all groupers other than deep-water groupers and jewfish, including scamp before the commercial quota for shallow-water groupers is reached, combined—9.8 million pounds (4.4 million kilograms).

* * * * *

[FR Doc. 92-12045 Filed 5-21-92; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 650

[Docket No. 51222-6240]

Atlantic Sea Scallop Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Temporary adjustment of the meat-count/shell-height standards; extension of effective date.

SUMMARY: NMFS extends the temporary adjustment of the meat-count and shell-height standards for the Atlantic sea scallop fishery through September 30, 1992. This adjustment of the average meat-count standard is 33 meats per pound (MPP) (meats per 0.45 kg) and the shell-height standard is 3 7/16 inches (87 mm).

EFFECTIVE DATES: July 1, 1992, through September 30, 1992.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Resource Policy Analyst, Fishery Management Operations, NMFS Northeast Regional Office, 508/281-9273.

SUPPLEMENTARY INFORMATION: Regulations at 50 CFR part 650 implementing the Fishery Management Plan for Atlantic Sea Scallops (FMP) authorize the Director, Northeast Region, NMFS (Regional Director), under authority of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), to adjust temporarily the meat-count/shell-height standards (standards) upon finding that specific criteria are met.

On February 5, 1992 (57 FR 4377), a notice was published in the **Federal Register** that implemented a temporary adjustment of the standards to 33 MPP (33 meats per 0.45 kg) with a corresponding shell-height standard of 3 7/16 inches (87 mm) and outlined the process by which the adjustment was made. After consideration of the criteria in § 650.22(c), the Regional Director has decided to continue the adjustment to the standards from July 1, 1992, through September 30, 1992.

The FMP specifies a 10-percent increase in the meat-count standard during the months of October through January, the period when spawning causes a reduction in the meat weight of scallops. This extension of the temporary adjustment will end on September 30, 1992, prior to the effective date of the spawning season adjustment. October 1, 1992, marks the beginning of the seasonal adjustment to the meat count standard approved under Amendment 2 to the FMP and codified at § 650.20(c)(1). The meat-count standard will remain at 33 MPP (33 meats per 0.45 kg) and the shell-height standard will revert to 3½ inches (89 mm) at that time.

List of Subjects in 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

Dated: May 18, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc 92-11994 Filed 5-21-92; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 681

[Docket No. 920517-2117]

Western Pacific Crustacean Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Interim 1992 final quota for crustaceans; request for comments.

SUMMARY: NMFS announces that the interim final (initial) quota for lobsters taken in the Northwestern Hawaiian Islands (NWHI) crustaceans fishery in 1992 is set at 750,000 lobsters. This action is necessary to inform the public of the quota and to solicit public comments. This measure is intended to carry out the objectives of Amendment 7 under the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP). The final quota for the 1992 fishing year, which begins July

1, 1992, will be announced after the first month of fishing.

DATES: Effective July 1, 1992. Comments are invited until June 22, 1992.

ADDRESSES: Comments should be sent to Mr. E. C. Fullerton, Regional Director, Southwest Region, NMFS, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802. Copies of the FMP amendment and associated environmental assessment (EA) establishing the quota system for the NWHI crustaceans fishery may be obtained from Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, NMFS, 310–980–4034; Alvin Z. Katekaru, Pacific Area Office, NMFS Southwest Region, Honolulu, Hawaii 808–955–8831; or Kitty Simonds, address above, 808–523–1368.

SUPPLEMENTARY INFORMATION: The crustacean fisheries of the NWHI are managed by the Secretary of Commerce (Secretary) according to the FMP. The FMP was prepared by the Western Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fishery at 50 CFR part 681. General regulations that also pertain to the U.S. fishery are implemented at 50 CFR part 620.

Under authority of the Magnuson Act, the Secretary approved Amendment 7 to the FMP (implemented by a final rule published at 57 FR 10437, March 26, 1992). This amendment establishes a seasonal closure, a limited entry program, and a process (including a formula) to set an annual harvest quota for the lobster fishery in the NWHI. The first year of fishing under the quota is 1992, and the fishing year will begin July 1, 1992.

The quota is announced in two steps. First, based on the previous years' fishery data, and research sampling and other data sources, if necessary, the Regional Director, Southwest Region, NMFS, (Regional Director) determines an initial quota, which is announced in the **Federal Register** by the Assistant Administrator for Fisheries (§ 681.31(b)). The final quota for the year is then determined based on actual fishery results in the first month of fishing (§ 681.31(c)). These actual catch and effort data are expected to provide a more reliable indicator of the health of the lobster stocks in the NWHI.

Under § 681.31(b), the Regional Director used the formula in the FMP amendment to determine that the initial quota for 1992 is 750,000 lobsters (spiny and slipper lobster combined). It is emphasized that the available fishery data for 1991 are extremely limited due to a closure of the NWHI fishery for much of the year. The final quota, to be announced in the **Federal Register** in August 1992, may increase or decrease substantially from the initial quota. The Southwest Region, NMFS, will attempt to notify fishery participants of any changes promptly, to monitor landings against the quota, and report summary data on a timely basis. However, fishery participants are advised to contact the Southwest Region (see **ADDRESSES**) periodically to stay abreast of changes in the quota or progress of the fishery toward the quota during the year.

Classification

This action is taken under the FMP and 50 CFR part 681 and complies with E.O. 12291.

An EA was published for Amendment 7, which established the process and formula for setting the quota for the NWHI crustaceans fishery. The initial quota set by this notice is within the range of alternatives considered in the EA. Therefore, this action is categorically excluded from the NEPA requirement to prepare an environmental assessment in accordance with section 6.02c.3.(f) of NOAA Administrative Order 216–6.

List of Subjects in 50 CFR Part 681

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 18, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92–12046 Filed 5–21–92; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 57, No. 100
Friday, May 22, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 92-036]

Ports Designated for the Importation of Horses; Santa Teresa, NM

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to amend the animal importation regulations by adding Santa Teresa, NM, to the list of Mexican border ports of entry for horses. This action would facilitate the importation of horses from Mexico by making an additional port of entry available.

DATES: Consideration will be given only to comments received on or before June 22, 1992.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 92-036. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Karen A. James, Senior Staff Veterinarian, Import-Export Animals Staff, VS, APHIS, USDA, room 765, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8170.

SUPPLEMENTARY INFORMATION:

Background

The animal importation regulations (contained in 9 CFR part 92 and referred to below as the regulations), among other things, list ports that have inspection and quarantine facilities for animals and animal products offered for entry into the United States. We propose to amend § 92.303 of the regulations by adding Santa Teresa, NM, to the list of Mexican border ports of entry for horses.

The U.S. and Mexican horse industries and the Mexican Ministry of Agriculture have express the need for an additional port of entry for the importation of horses from Mexico. Sections 92.323 and 92.324 of the regulations provide that all horses offered for entry from Mexico shall be imported through ports that are equipped with facilities necessary for proper inspection and quarantine. We have determined that Santa Teresa, NM, has the facilities required for designation as a port of entry for horses. Executive Order 12291 and Regulatory Flexibility Act.

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule, if adopted, would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

El Paso, TX, is the only Mexican border port of entry for horses between the approved ports at Columbus, NM, and Presidio, TX. The inspection facilities at El Paso are not adequate for large numbers of horses. The U.S. and Mexican horse industries and the Mexican Ministry of Agriculture have expressed the need for an alternative port of entry to more easily accommodate large shipments of horses. Santa Teresa, NM, which is less than 10 miles from El Paso, TX, is already operating as a border port of entry for ruminants and has the inspection facilities necessary to operate as a border port of entry for horses. Therefore, the opening of Santa Teresa, NM, as a border port for horses would be easily implemented and would benefit the U.S. and Mexican horse industries by providing additional facilities for the importation of horses from Mexico. This action is necessary for the purposes of convenience only, and it is not expected to result in an increased number of horses being imported from Mexico.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) it will not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

This proposed rule contains no new information collection of recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR part 92

Animal diseases, Animal welfare, Imports, Humane animal handling, Livestock and livestock products, Mexico, Transportation.

Accordingly, we propose to amend 9 CFR part 92 as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 would continue to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105; 111, 134a, 134b, 134c, 134d, 134f and 135; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.303 [Amended]

2. In § 92.303, paragraph (c) would be amended by removing the word "and" immediately before "Columbus" and by adding "and Santa Teresa," immediately before the words "New Mexico".

Done in Washington, DC, this 18th day of May 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–12043 Filed 5–21–92; 8:45 am]

BILLING CODE 3410–34–M

FARM CREDIT ADMINISTRATION

12 CFR Parts 607 and 618

RIN 3052–AB19

Assessment and Apportionment of Administrative Expenses; General Provisions

AGENCY: Farm Credit Administration (FCA).

ACTION: Notice of meetings of FCA Assessment Regulations Negotiated Rulemaking Committee.

SUMMARY: In accordance with the Negotiated Rulemaking Act and the Federal Advisory Committee Act, the FCA hereby gives notice of the first and second meetings of the FCA Assessment Regulations Negotiated Rulemaking Committee, which will be convened to negotiate and develop proposed amendments to FCA assessment regulations. These regulations prescribe the method for assessing Farm Credit System (System) institutions for the FCA's annual expenses in administering the Farm Credit Act of 1971.

DATES: The first and second meetings of the Assessment Regulations Negotiated Rulemaking Committee will be 2-day sessions. The first meeting will be on June 8, 1992 from 9 a.m. to 5 p.m., and continue on June 9, 1992 from 8:30 to 4 p.m. The second meeting will be on June 22, 1992 from 9 a.m. to 5 p.m., and continue on June 23, 1992 from 8:30 a.m. to 4 p.m.

ADDRESSES: The Committee will meet in rooms 1101–02 of the FCA, 1501 Farm Credit Drive, McLean, Virginia.

FOR FURTHER INFORMATION CONTACT:

Robert S. Child, Senior Credit Specialist, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4189, TDD (703) 883–4444, or

William L. Larsen, Senior Attorney, Regulatory and Legislative Law Division, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: Pursuant to the Negotiated Rulemaking Act of 1990, 5 U.S.C. 581, 585, and the Federal Advisory Committee Act, 5 U.S.C. App. 2, section 10, the FCA gives notice of the first and second meetings of its Assessment Regulations Negotiated Rulemaking Committee. The meetings will be held at the FCA's McLean, Virginia headquarters and will be open to the public.

The Committee is meeting to develop and negotiate proposed amendments to FCA assessment regulations. The first meeting will be organizational in nature and include a training session lasting approximately half a day. The balance of the agenda of the organizational session will be devoted to establishment of committee procedures, discussion of logistical and scheduling needs, identification of issues, and, to the extent possible, substantive discussions. The agenda for the second meeting will be shaped by the progress of discussions and negotiations at the first meeting. Tentatively, the Committee is scheduled to meet biweekly for 2-day sessions continuing through approximately August 4, 1992, subject to adjustment by the Committee if needed.

On May 6, 1992, the FCA published notice of its intent to establish a negotiated rulemaking committee to develop and negotiate proposed amendments to its assessment regulations. 57 FR 19405. The Notice of Intent describes the negotiated rulemaking process and how it will apply to development of proposed assessment regulations.

The assessment regulations prescribe the method for assessing System institutions for the FCA's annual expenses in administering the Farm Credit Act of 1971, 12 U.S.C. 2001 *et seq.* A complete discussion of the current assessment procedures and the need for new regulations can be found in the FCA's Notice of Proposed Rulemaking published at 56 FR 13424, April 2, 1991.

Dated: May 19, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92–12075 Filed 5–21–92; 8:45 am]

BILLING CODE 6705–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MM Docket No. 87–268, FCC 92–174]

Broadcast Services; Advanced Television Systems

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This proposed rule is one segment of the Second Report and Order/Further Notice of Proposed Rule Making (Order/FNPRM). The final rules may be found elsewhere in this issue. This proposed rule seeks comment on several questions relating to the implementation of advanced television (ATV) service in this country. These actions are necessary at this time to ensure selection of the best ATV system possible, and to establish procedures that will result in a smooth, successful transition to ATV.

DATES: Comments are due by July 17, 1992 and reply comments are due by August 17, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Gina Harrison, Mass Media Bureau, Policy and Rules Division (202) 632–7792, Gordon Godfrey, Mass Media Bureau, Policy and Rules Division (202) 632–9660, or Alan Stillwell, Office of Engineering and Technology (202) 653–8162.

SUPPLEMENTARY INFORMATION: This is a synopsis of the proposed rules segment of Commission's Order/FNPRM in MM Docket No. 87–268, FCC No. 92–174, adopted April 9, 1992, and released May 8, 1992. The complete text of this document is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 4521–1422, 1919 M Street, NW., Washington, DC 20037.

Synopsis of Further Notice of Proposed Rule Making

1. The Commission in this action seeks comment on a number of issues relating to implementation of ATV. The Commission has previously decided that it would select an ATV system that operates on a standard 6 MHz channel and that that ATV channel would be separate and independent of the existing NTSC channel. First Report and Order, 55 FR 39275 (Sept. 26, 1990). ATV refers to any television technology, including High Definition Television (HDTV) and Enhanced Definition Television (EDTV), that provides improved audio and video quality or enhances the current television broadcast system. The existing broadcast system is known as NTSC, after the National Television System Committee, an industry group that developed the existing standards.

2. The Commission has decided to restrict initial eligibility for ATV channels to existing broadcasters for a period of two years (see document published elsewhere in this issue). The Notice of Proposed Rulemaking, 56 FR 58207 (Nov. 16, 1991) (Notice) proposed to include in the class of existing broadcasters who would be initially eligible for ATV channels: (1) All full-service television broadcast station licensees, (2) permittees authorized as of the date of adoption of the notice, and (3) all parties with applications for a construction permit on file as of the date of adoption of the Notice who are ultimately awarded full-service television broadcast licenses. In the case of insufficient spectrum to accommodate all of the groups within the class of existing broadcasters, the Commission now proposes to rank those eligible parties according to their degree of experience as NTSC broadcasters. The Commission thus proposes to rank initially eligible parties in the following order: (1) Licensees and permittees with constructed facilities having program test authority, (2) permittees, and (3) applicants. The Commission does not propose to afford specific types of full-service broadcasters, such as noncommercial broadcasters, priority over types in obtaining a second 6 MHz channel. In the case of insufficient spectrum to accommodate licensees and permittees with constructed facilities (the proposed first-ranked group) the Commission would apply some other method of deciding who would be assigned an ATV channel. The Commission defers resolving this last question, and the question whether to apply the methods proposed in Notice for assigning channels in the event of a spectrum shortfall (or some other alternative) until a subsequent Report and Order deciding whether to rank initial applicants, as here proposed.

3. After initial assignments are made to existing broadcasters, the Commission proposes to assign ATV channels to (1) parties ultimately awarded a construction permit based on an allotment petition pending as of the date of the notice, regardless of whether or not the permittee had filed the original allotment petition; (2) parties awarded waivers of the current freeze on television broadcast applications in major markets and who are subsequently awarded an NTSC authorization; and (3) any other parties authorized to construct NTSC facilities in the interim period after adoption of the notice. These parties, having just been awarded broadcast facilities, have relatively less experience than the initially eligible group of broadcasters, and thus are relatively less likely to have the expertise to help speed ATV implementation. The Commission thus proposes to award these parties ATV channels only after the initially eligible group of broadcasters receives assignments. The Commission plans to satisfy a commenter's request for a list of all proposed eligible parties and their respective transmitter locations in the next Notice of Proposed Rule Making in this proceeding, which will solicit comment on a proposed Table of ATV Allotments. The Commission will also address at that time whether and how to freeze the pool and locations of existing transmitters, whether to impose a freeze for planning purposes on modifications of existing licenses, and whether to delete commercial NTSC allotments for which no applications are pending.

4. The Commission proposes to suspend the dual network prohibition (47 CFR 73.658 (g)), which prohibits a network from simultaneously operating more than one network of television stations in identical or overlapping geographic areas. During the transition to ATV, the networks will necessarily have to program their affiliates' two stations. Moreover, the networks are likely to be an early source of ATV programming on which existing affiliates will want to rely. Permitting the networks to supply their affiliates with ATV programming thus is likely to contribute to expeditious delivery of ATV programming to the public. The Commission thus proposes to suspend the dual network prohibition to permit networks to give their affiliates a second feed for ATV. The Commission stresses that any such suspension would be transitional only and would be expressly limited to permitting networks to provide an ATV feed. The Commission also seeks comment on whether suspension should extend to circumstances where a network's two feeds (ATV and NTSC) go to different licensees in a market (this might occur, for example, if a network's NTSC affiliate fails to apply for, to be awarded, or somehow forfeits the right to interim use, of a second ATV conversion channel), and if so, if any additional regulatory steps would be required in such case.

5. With respect to assignment of ATV channels, the Commission continues to believe that negotiations among broadcasters should be an integral part of the process of assigning ATV channels. Such an approach would ensure the most expeditious and efficient implementation of ATV service to the public. Accordingly, the Commission has developed the following revised proposal for the initial assignment of ATV channels. This proposal will ensure that assignment and licensing procedures are in place at the time the Commission adopts an ATV standard, as many parties request. Under this proposal, at the time the Commission issues a Further Notice proposing a Final Table of Allotments (a sample Table of ATV Allotments is scheduled to be proposed in June 1992), broadcasters would have a fixed period of time to negotiate with each other and submit plans for pairing NTSC and ATV channels either nationwide or on a market-by-market basis. Both commercial and noncommercial stations would be permitted to participate in this negotiation. Once the period for such industry negotiations ends, if there are markets remaining where broadcasters are unable to agree on a pairing plan, the channels in those markets would be assigned on a first-come, first-served basis. In the case of simultaneously filed applicants, the Commission would apply a "random ranking" procedure, so that the top-ranked applicant would be granted its first choice, and the next-ranked applicant its highest choice that would not conflict with the first-ranked applicant, and so on. The Commission stated that it was reluctant to propose a specific methodology for pairing ATV and NTSC channels, doubting that there was a simple and efficient method which would automatically lead to the right outcome in each market.

6. The Commission proposes to require low-power television service stations to broadcast in the ATV mode at the time that full-service stations will be required to convert to ATV (*i.e.*, at the time they will be required to cease broadcasting in NTSC and broadcast

only in the ATV mode). Such a requirement would be consistent with the treatment of full-service stations, and would help spur ATV receiver penetration by increasing the sources of ATV programming available. Moreover, requiring low-power television service to implement ATV at the time of full service station conversion would give low power television stations and translators ample time to plan their transition.

7. The Commission tentatively concludes that it should establish a date for conversion that is 15 years from the date adoption of an ATV system or a final Table of ATV Allotments is effective, whichever is later. This date should permit the majority of consumers who purchase NTSC receivers prior to the introduction of ATV to get full use of their NTSC equipment. Moreover, by this point, the cost of ATV receivers should have declined from the level of initial prices, as a result of increased consumer acceptance and higher volume sales. Preliminary studies also suggest that, even absent imposition of a conversion deadline, significant numbers of consumers should have purchased ATV receivers by this point. By the time the proposed conversion point is reached, broadcasters will have constructed an ATV transmission facility and should have implemented studio production capability. It is also possible that inexpensive downconverters permitting the reception of ATV signals on conventional NTSC sets (in NTSC quality) will have become available, thereby enabling those without ATV television sets to continue to receive broadcast service without purchasing a completely new receiver. ("Downconversion" refers to programming converted from ATV to NTSC. "Upconversion" refers to programming converted from NTSC to ATV format.) The Commission seeks comment on the tentative conclusion that a 15-year conversion date would be appropriate and on the reasoning underpinning this tentative finding.

8. The Commission also invites interested parties, particularly system proponents, consumer electronics manufacturers, and professional broadcast equipment manufacturers, to comment on the availability and costs they project during this 15-year period for equipment needed in the home and in the broadcast studio to receive and produce programming in the ATV mode. In particular, the Commission seeks comment on the timing of widespread availability of ATV receivers, home downconverters, and ATV professional broadcast equipment, and what the cost of such equipment is expected to be (including any expected changes in price) during the 15-year conversion period. Parties are also asked to comment on whether the possible availability of downconverters should influence the manner by which the Commission assesses ATV acceptance. The Commission asks whether the availability of reasonably priced ATV downconverters would lessen concerns about the premature obsolescence of NTSC sets in a household.

9. Notwithstanding the tentative conclusion to set a 15-year conversion date, the Commission acknowledges that at this point it is difficult to predict with certainty how ATV implementation will occur. While the Commission intends to establish a firm conversion date in the next stage of this proceeding, it proposes to review, in 1988, the propriety of that conversion date. This review should alleviate concerns about the premature termination of NTSC. It would also leave room for adjustment of ATV implementation should proceed more or less swiftly than envisioned. By 1998, the Commission should have gained considerable experience concerning the transition to ATV, there should be better data regarding the development of set-top converters and other factors relevant to determination of a timetable for recapture of NTSC reversion spectrum. This data will in turn enable us to weigh the opportunity costs of keeping the reversion spectrum with broadcasters for some additional period of time against the costs to broadcasters and consumers of fully converting to ATV. The Commission seeks comment on the proposal to review, in 1998, the suitability of the conversion date we will soon establish in the next stage of this proceeding.

10. The Commission has decided that 100 percent simulcasting should be required on the ATV channel at the earliest appropriate time.

The Commission tentatively concludes that this 100 percent requirement should be adopted no later than four years after the five-year ATV application/construction period for preferred allotments has passed. Four years after the five-year ATV application/construction period for preferred allotments has passed—nine years after a standard becomes effective—should afford broadcasters sufficient time to explore the potential of this new technology, and ATV should have established itself. Thus, the need to afford broadcasters some flexibility in starting up ATV operations will have diminished. On the other hand, requiring 100 pecent simulcasting at this point should serve the Commission's twin goals of protecting consumer investment in NTSC equipment and insuring spectrum efficiency. (The simulcast requirement would begin to run on a nationwide basis. The Commission would not make exceptions to the simulcast requirement for individual stations that obtain extensions of their construction permits. The Commission believes that piecemeal implementation would, to the detriment of the viewing public, prove too disruptive to programming sources that are supplied nationwide.)

11. The Commission also recognizes that there may be a need for some initial flexibility in programming the ATV channel to permit the development of equipment and programming for this new technology and to attract consumer interest. It seeks comment on one alternative that would phase in the simulcasting requirement, permitting broadcasters to make adjustments in a gradual fashion. Under this staggered approach, the Commission would allow broadcasters complete flexibility in programming the ATV channel during the first two years after the initial five-year application/construction period has passed. However, as ATV implementation progresses, ATV receiver penetration is likely to increase and the need for regulatory intervention to protect existing consumer investment and ensure our ability to reclaim the second 6 MHz channel is likely to become more acute. Thus, starting two years after the initial ATV application/construction deadline for existing broadcasters has passed—seven years from the time a Report and Order adopting an ATV standard becomes effective—the Commission would require broadcasters to simulcast 50 percent of each day's programming. This 50 percent requirement would continue to afford broadcasters some flexibility as they implement full ATV production capabilities, but would also prompt them to prepare for complete conversion to ATV technology by ensuring that they do not use the second 6 MHz channel to develop a separate program service. In addition, the phased-in 50 percent simulcast requirement would enable us to safeguard consumer interests in the long-term, when ATV overtakes NTSC, by protecting the public's investment in NTSC technology. For the reasons discussed above, the 50 percent simulcasting requirement then would be increased to a 100 percent requirement two years later, at a point nine years after an ATV standard becomes effective. The Commission seeks comment on this proposed approach.

12. The Commission also seeks comment on other alternative schedules, including an approach that would adopt a full simulcasting requirement earlier than four years after the application/construction period has passed. An earlier adoption of a 100 percent simulcast requirement would appear to strengthen the ability to reclaim one 6 MHz channel at conversion. If the necessary technical equipment is available, it might be technically feasible to move a 100 percent simulcasting requirement to an earlier point. The Commission seeks comment on such an approach and the projections as to the availability of necessary hardware and software that underlie it. The Commission also seeks comment on whether broadcasters would, regardless of technical feasibility, need some reprieve from a 100 percent simulcast requirement after the initial application/construction period passes, to explore the creative potential of the ATV mode, to attract viewers to ATV, and to insure their ability to recoup their investment in ATV implementation.

13. The Commission also seeks comment on other proposed approaches to affording broadcasters flexibility in developing ATV technology. For example, the Commission might require a broadcaster to air the same programming on the ATV and NTSC channels, but permit flexibility with respect to time of airing or material included. The guiding policy under such an approach would be to ensure that the NTSC viewer had an opportunity to receive the same programming available to ATV viewers during the early phase of ATV implementation. Under this approach, the Commission would broadly define the "same time" at which simulcast programs are required to air, *e.g.*, as the same 24-hour period. It would define "same program" as one which has as its basis the same underlying material. Thus, variances between programs accommodating the special nature of ATV or NTSC, such as different aspect ratios, angles or numbers of cameras, or commentary would be permitted. It might also be possible to define "program" to exclude commercials and promotions, and to include primary material such as movies, news, sports and entertainment shows. The Commission also seeks comment on whether programming subject to a simulcast requirement should be of some minimal length and, if so, what an appropriate length should be. These proposed definitions regarding the timing and content of simulcast material would give broadcasters added flexibility and would alleviate concerns that a simulcasting requirement will have a chilling effect on program content or raise First Amendment concerns. The Commission seeks comment on these proposals. If such an approach is adopted, the Commission seeks comment on whether it would remain necessary to "phase in" a full simulcasting requirement, as proposed above, to afford broadcasters the flexibility they may need to implement ATV.

14. The Commission tentatively concludes that from the outset, upconverted NTSC programming on broadcasters' second 6 MHz channel must be simulcast programming. The Commission is awarding broadcasters a second 6 MHz channel on a interim basis to permit them to make a transition to ATV. The Commission sees no reason to permit use of the second channel for non-ATV programs that differ from those broadcast on the associated NTSC channel. Thus, in the event the Commission adopts a phased-in simulcast requirement, it would nonetheless expect programming on the ATV channel to take full advantage of the technical capabilities of the ATV mode. The Commission seeks comment on these tentative conclusions. It also seeks comment on the types of programming which would take such full advantage of the ATV mode. For example, such programming might include: (1) Programs produced in film and directly converted to the ATV mode; (2) programs originally produced on tape in the ATV mode; and (3) programs produced in the ATV mode live. The Commission interested parties to comment on what other types of programs, in addition to these three categories, would take full advantage of the technical capability of the ATV mode.

15. In assessing the impact of various alternatives for adopting a simulcast requirement, the Commission is particularly interested in their effect on consumer interest in ATV and on ATV receiver penetration. The Commission is thus most concerned that it receive detailed comments from electronics manufacturers on the desirability of any given simulcast approach. The Commission also seeks detailed comment, especially from professional equipment manufacturers, regarding the speed with which cost-effective equipment permitting upconversion of NTSC programming and downconversion of ATV programming will be available. The Commission also asks for detailed information, particularly from consumer equipment manufacturers, regarding the extent to which inexpensive downconverters for home use are expected to be readily available. The Commission also asks interested parties, particularly consumer equipment manufacturers, to comment on the likelihood that dual mode ATV/NTSC receivers will be developed, and the relative cost of such a dual mode receiver as compared with an ATV-only receivers. Finally, the Commission asks interested parties, particularly the programming community, to comment on whether and when a supply of ATV-capable programming is expected to be readily available to broadcasters and consumers.

16. The Advisory Committee on Advanced Television Service (Advisory Committee) has conducted a review of new developments in ATV technology and concluded that there are a number of techniques, still in the developmental stage, for the compression of video signals. However, the Advisory Committee has found that none is sufficiently concrete to be contemporaneously tested with the ATV proponent systems now being judged, a criterion the Commission previously established for consideration of any new system. The Advisory Committee thus finds that the five proponent ATV systems now under consideration represent the state of available technology. The Commission seeks comment on these findings. It also requests information on any other new developments (1) that offer important new benefits and (2) which are in a sufficiently concrete state of development to be considered with existing systems.

Procedural Matters

Ex Parte Consideration

17. This is a non-restricted proceeding. See § 1.1202 *et seq.* of the Commission's Rules, 47 CFR 1.202 *et seq.* for rules governing permissible *ex parte* contacts.

Comment Information

18. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comment on or before July 17, 1992, and reply comments on or before August 17, 1992. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

Initial Regulatory Flexibility Statement

I. Reason for Action

19. This action is taken to invite further comment on outstanding questions affecting implementation of

advanced television (ATV) service in this country.

II. Objectives of the Action

20. It is intended that the comments engendered through this action will resolve some of the issues surrounding the introduction of ATV service in this United States. Further comment is sought through this decision in order to establish a comprehensive, reliable record on which to base our decisions regarding ATV. The record established from comments filed in response to this decision, as well as other Commission decisions, and the combined efforts of the Commission, the affected industries, the Advisory Committee on Advanced Television Service, and the ATV testing process, will lead to implementation of ATV in the most harmonious fashion and to selection of the most desirable ATV system.

III. Legal Basis

21. Authority for this action may be found in 47 U.S.C. 154 and 303.

IV. Reporting, Recordkeeping and Other Compliance Requirements

22. Such requirements are not proposed in this phase of the proceeding, but may be raised and comment sought, in future decisions in this proceeding.

V. Federal Rules Which Overlap, Duplicate or Conflict With These Rules

23. There are no rules which would overlap, duplicate or conflict with these rules.

VI. Description, Potential Impact and Number of Small Entities Involved

24. There are approximately 1,495 licensed commercial and educational UHF and VHF television stations, approximately 4,833 licensed UHF and VHF translator stations, and approximately 1,210 licensed UHF and VHF low-power television stations, who could be affected by the actions ultimately taken in this proceeding. Those who are initially eligible for ATV channels (full-service television broadcast station licensees, permittees authorized as of the date of adoption of the notice of proposed rule making (notice) in this proceeding, and all parties with applications for a construction permit on file as of the date of adoption of the notice ultimately awarded full-service television broadcast station licenses), who choose to apply for a channel, would be affected by the allotment and assignment procedures selected on the basis of the record resulting from this proceeding. In this decision, we propose that, later in the process, a table of allotments will be issued and public comment sought. Applicants will be allowed a period to negotiate channel assignments. If the parties cannot negotiate a pairing plan, assignments will be made on a first come, first served basis, with those applying at the same time would receive a channel based on random ranking of preferences.

25. If there is insufficient spectrum to accommodate all initially eligible parties, we would rank them as follows: (1) Licensees and permittees with constructed facilities having program test authority, (2) all other permittees, and (3) applicants. In the case of insufficient spectrum to accommodate all licensees and constructed permittees in a community, we would apply some other method of deciding who would be assigned an ATV channel.

26. After initial assignments are made, ATV channels would then be assigned to: (1) Parties ultimately awarded a permit based on an allotment petition pending as of the date of the notice, regardless of whether or not the permittee had filed the original allotment petition, (2) parties awarded waivers of the current freeze on television broadcast applications in major markets and who are subsequently awarded an NTSC authorization, and (3) any other parties authorized to construct NTSC facilities in the interim period after adoption of the notice. After this point, eligibility will be unrestricted.

27. We also propose to suspend the dual network prohibition rule, which prevents a network from simultaneously operating more than one network of television stations in identical or overlapping areas. Networks would thus be allowed to operate both an NTSC and an ATV network during the transition to ATV. In this regard, we also seek comment on whether the suspension should extend to circumstances where the two network feeds in a market go to different stations, and if so, on whether steps should be taken to ensure that a network cannot favor one station over the other, to the ultimate harm of one of the stations.

28. We seek comment on whether we should require LPTV and translator stations, at the time of "conversion" of full-service broadcast stations to ATV, to cease broadcasting in NTSC and broadcast only in ATV. By imposing a requirement only at the time of conversion to ATV, we will allow LPTVs ample opportunity to plan their transition to ATV.

29. We solicit comment on the results of an Advisory Committee review concluding that there are a number of techniques, still in the developmental stage, for the compression of video signals, but that none are apparent which are sufficiently concrete to be contemporaneously tested with the systems now being judged. It thus found that the five proponent ATV systems now under consideration represent the state of available technology. We also request information on any other new developments (1) that "offer important new benefits" and (2) which are in a "sufficiently concrete state of development to be considered with existing systems." Various small businesses could be affected by Commission action resulting from the response generated from the request for comment.

30. Station operators will be affected by our tentative decision to set the date for full conversion to ATV at 15 years from the date an ATV system is selected, or a final Table of ATV Allotments is effective, whichever is later. We believe that this date should permit the majority of consumers who purchase NTSC receivers prior to the introduction of ATV to get full use of their NTSC equipment, and also provide time for consumer acceptance of ATV to drive down the cost of ATV receivers from initial price levels, this spurring higher volume consumer ATV receiver sales. We are seeking comment, particularly from consumer electronics manufacturers and professional broadcast equipment suppliers on our proposed timetable. We are especially interested in detailed comments on the timing of widespread availability of ATV receivers and necessary ATV broadcast equipment, and on their projected prices. We also invite comment, particularly from system proponents and those parties with consumer manufacturing expertise, on the projected costs for ATV receivers during this 15-year period, and on the likely availability and cost of ATV downconverters. We seek comment on whether the possible availability of downconverters should influence the manner by which we assess ATV acceptance, and whether the availability of reasonably priced downconverters should lessen concerns about the premature obsolescence of NTSC sets in a household.

31. Broadcasters will further be affected by our tentative decision to require 100 percent simulcasting of the programming on the ATV channel no later than four years after the five-year ATV application/construction period has passed—nine years after a standard becomes effective. We believe that this

timeframe will afford broadcasters sufficient time to explore the potential of ATV and that by that point, ATV should have established itself, and ATV receiver penetration and revenues from ATV programming should be increasing. We do, however, seek comment on several approaches to simulcasting that would provide broadcasters with appropriate flexibility whole requiring simulcasting. Broadcasters would, of course, be respectively affected, if after a review of the comments received in response to this Order/FNPRM, we choose a 100 percent simulcast requirement more or less stringent than the four year proposal. We also tentatively conclude that, from the outset, upconverted NTSC programming on broadcasters' second 6 MHz channel must be simulcast programing. Because we are awarding broadcasters a second 6 MHz channel on an interim basis to permit them to make a transition to ATV, we see no reason to permit use of that second channel for non-ATV programs that differ from those broadcast on the associated NTSC channel. Under this approach, non-simulcast programming on the ATV channel would have to be programming that takes full advantage of the technical capabilities of the ATV mode, for example: (1) Programs produced in film and directly converted to the ATV mode, (2) programs originally produced on tape in the ATV mode, and (3) programs produced in the ATV mode live. We seek comment on this approach and on whether any other types of programs could take full advantage of ATV capabilities.

VII. Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With Stated Objectives

32. In offering proposals for public comment in all facets of this proceeding, we have tried to select alternatives that would cause the least disruption to the least number of parties. This concern is reflected in the proposals adopted and discussed in the Final Regulatory Flexibility Act Statement in appendix B of the complete text of the Order/FNPRM. Several commenters suggest alternatives to our proposals or variations of our proposals which we reject for this reason. Public Television, for example, asks that we give any type of full-service broadcaster, including noncommercial broadcasters, permittees, or applicants priority over any other type in allotting a second 6 MHz channel. Several commenters ask that we grant priority status to low-power service stations. We also decline these suggestions.

33. Despite our tentative decision to set a 15-year date for full conversion to ATV, in recognition of the many factors which could develop making it difficult to accurately predict how ATV implementation will occur, we propose to review, in 1998, the propriety of the conversion date. This review should alleviate concerns about premature termination of NTSC, and should also leave room for adjustment if ATV implementation should proceed more or less swiftly than anticipated. By 1998, we should have gained considerable practical experience concerning the transition to ATV. We recognize that the development of downconverters for the reception of ATV programming on NTSC receivers may accelerate conversion, obviating the need for consumers to purchase new ATV receivers. Thus, the speed with which such converters may become available will also impact our determination of an appropriate conversion date. Also, by 1998, we should have better data regarding the development of set-top converters and other factors relevant to determination of a timetable for recapture of NTSC reversion spectrum. Therefore, our decision to review the 15-year conversion date in 1998 should ensure minimal financial harm to broadcast licensees.

34. In proposing a 100 percent simulcasting requirement no later than four years after the five-year ATV initial application/construction period, we seek to assuage any unduly burdensome effect on broadcasters by inviting comment on proposed approaches to simulcasting which would afford broadcasters flexibility in developing ATV technology. We realize that there may be a need for some initial flexibility in programming the ATV channel to permit the development of equipment and programming for this new technology and to attract consumer interest. Therefore, we suggest one alternative that would have us phase in our simulcasting requirement, permitting broadcasters to make adjustments in a gradual fashion. This staggered approach would allow broadcasters complete flexibility in programming the ATV channel during the first two years after the initial five-year application construction period has passed. However, as ATV implementation progresses, ATV reciever penetration should increase and the need for regulatory intervention to protect consumer investment and ensure our ability to reclaim the second 6 MHz channel will become more acute. Thus, starting two years after the initial application/construction deadline for existing broadcasters has passed—seven years from the time a Report and Order adopting an ATV standard becomes effective—we would require broadcasters to simulcast 50 percent of each day's programming. We believe that this 50 percent requirement would continue to afford broadcasters some flexibility as they implement full ATV production capabilities, but would also prompt them to prepare for complete conversion to ATV by ensuring that they do not use the second 6 MHz channel to develop a separate program service. The 50 percent simulcasting requirement would be increased to a 100 percent requirement within another two years at a point nine years after an ATV standard becomes effective.

35. Another approach to providing broadcasters with flexibility in developing ATV technology would involve a requirement that broadcasters air the same programming on the ATV channel, but permit flexibility with respect to time of airing or material included. We would broadly define "same time" at which simulcast programs are required to air, *E.G.*, as the same 24-hour period. "Same program" could be defined as one which has as its basis the same underlying material. Thus, variances between programs accommodating the special nature of ATV or NTSC, such as different aspect ratios, angles, or number of cameras, or commentary would be permitted. We might also define "program" to exclude commercials and promotions and to include primary material such as movies, news, sports, and entertainment shows. We also seek comment on whether "program" should include material of some minimal duration. These proposed definitions for the timing and content of simulcast material would give broadcasters added flexibility and would alleviate concerns that a simulcasting requirement will have a chilling effect on program content or raise First Amendment concerns.

36. The Secretary shall cause a copy of this Second Report and Order/Further Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel For Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

37. Accordingly, it is ordered that pursuant to the authority contained in sections 4 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154 and 303, this Second Report and Order/Further

Notice of Proposed Rule Making is adopted.

List of Subjects

47 CFR Part 73

Television broadcasting.

47 CFR Part 74

Experimental, auxiliary and special broadcast and other program distribution services, Television broadcasting.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-11730 Filed 5-21-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 92-104, RM-7972]

Radio Broadcasting Services; Lake City, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by New Horizons Broadcasting Company, Inc., proposing the allotment of Channel *285A to Lake City, Michigan, and reservation of the channel for noncommercial educational use. Canadian concurrence will be requested for this allotment without a site restriction at coordinates 44-19-48 and 85-12-42.

DATES: Comments must be filed on or before July 6, 1992, and reply comments on or before July 21, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Paul Pichot, President, New Horizons Broadcasting Company, Inc., 1246 West VanderMeulen Road, Lake City, Michigan 49651.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-104, adopted April 29, 1992, and released May 13, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street NW., Washington, DC 20036, (202) 452-1422.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, and *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-11604 Filed 5-21-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[Docket No. 920516-2116]

Atlantic Swordfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule; 1992 preliminary initial specifications for Atlantic swordfish.

SUMMARY: NMFS issues a proposed rule to change the directed fishery and bycatch quotas for Atlantic swordfish and the bycatch limits in the non-directed fisheries for Atlantic swordfish in accordance with the framework procedure of the regulations under which the Atlantic swordfish fishery is managed. This rule proposes (1) directed-fishery quotas of 3.50 million pounds (1.59 million kg) for each of two semi-annual periods, each of which would be divided into drift gillnet quotas of 47,583 pounds (21,584 kg) and longline and harpoon quotas of 3,452,417 pounds (1,566,066 kg); (2) an annual bycatch quota of 0.56 million pounds (0.25 million kg); and (3) a bycatch limit for vessels in the squid trawl fishery of five swordfish per trip. The intent of this action is to protect the swordfish resource while allowing harvests of swordfish consistent with the recommendations of the International Commission for the Conservation of Atlantic Tunas.

DATES: Comments must be received on or before June 22, 1992.

ADDRESSES: Copies of documents supporting this action may be obtained from and comments on the proposed rule should be sent to Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Richard B. Stone, 301-713-2347.

SUPPLEMENTARY INFORMATION: The Atlantic swordfish fishery is managed under the Fishery Management Plan for Atlantic Swordfish (FMP) and its implementing regulations at 50 CFR part 630 issued under the authority of the Magnuson Fishery Conservation and Management Act and Atlantic Tunas Convention Act.

NMFS has reevaluated the annual total allowable catch (TAC), the annual directed-fishery quota, the annual bycatch quota, bycatch limits in the non-directed fishery, and the harpoon gear set-aside in the Atlantic swordfish fishery in accordance with the factors and procedures specified in 50 CFR 630.24(d). Accordingly, NMFS proposes for 1992 an increase in TAC of 0.66 million pounds (0.30 million kg) to 7.56 million pounds (3.43 million kg). All weights in this proposed rule are in dressed weight of swordfish. The proposed TAC would be divided between a directed-fishery quota of 7.00 million pounds (3.18 million kg) and a bycatch quota of 0.56 million pounds (0.25 million kg). These quotas in 1991 were 6.0 million pounds (2.72 million kg) and 0.9 million pounds (0.41 million kg), respectively.

The directed-fishery quota would be divided into two 3.50 million-pound (1.59 million-kg) semi-annual quotas for each of the 6-month periods, January 1 through June 30, and July 1 through December 31. Each of the 3.50 million-pound semi-annual quotas would be further subdivided into a drift gillnet quota of 47,583 pounds (21,584 kg) and a longline and harpoon quota of 3,452,117 pounds (1,566,066 kg). This division by gear types employs the same percentages as were in effective in 1991.

NMFS estimates that as much as 560,000 pounds (254,014 kg) may be required as a bycatch quota during 1992. The bycatch quota in 1991 was 900,000 pounds (408,237 kg). The proposed decrease bycatch quota in 1992 is due, in part, to the increased TAC and, thus, the

reduced likelihood of a directed fishery closure.

NMFS has no new information pertinent to the existing special set-aside for harpoon gear of 21,500 pounds. Accordingly, that amount would continue to be available to be set aside for the harpoon segment of the swordfish fishery if NMFS determines that the harpoon and longline quota in the January 1 through June 30 semi-annual period will have harvested before the harpoon segment has had an opportunity to harvest the set-aside amount. However, the metric equivalent of 21,500 pounds would be corrected to read 9,752 kg instead of 9,766.

The current regulations limit commercial fisheries that have an allowable bycatch of swordfish to two fish per trip. Available data regarding swordfish bycatch in all of these fisheries exept the squid trawl fishery are insufficient to justify changing that limit. Data, including limited observer data, on bycatch in the squid trawl fishery indicate that the bycatch trip limit in that fishery should be increased to five fish. Accordingly, NMFS proposes the addition of a separate bycatch trip limit of five fish for vessels using trawls in the squid fishery. NMFS proposes that, to be considered to be in the squid travel fishery, a vessel must have no commercial fishing gear other than trawl gear aboard and squid must constitute not less than 75 percent, by weight, of the total fish abroad or off-load from the vessel.

NMFS also proposes to correct three references in the prohibitions section of the regulations.

Classification

This proposed rule is consistent with 50 CFR part 630. The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because the rule will only increase gross revenues to about 400–500 swordfishing vessels by an average of $8,000—about 15 percent per vessel. As a result, a regulatory flexibility analysis was not prepared.

The Assistant Administrator for Fisheries determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291 because the total impact is only an increase of about $3.9 million, well under the $100 million guideline for a "major rule." NMFS prepared a regulatory impact review that concludes that this proposed rule would have the following economic impacts: (1) Increases in total gross and average gross revenues as stated above; and (2) a total increase in gross revenues of $16,000 (conservatively) for those vessels that incidentally catch swordfish in the squid trawl fishery.

List of Subjects in 50 CFR Part 630

Fisheries, Reporting and recordkeeping requirements.

Dated: May 15, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 630 is proposed to be amended as follows:

PART 630—ATLANTIC SWORDFISH FISHERY

1. The authority citation for part 630 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.* and 16 U.S.C. 971 *et seq.*

§ 630.7 [Amended]

2. In § 630.7, in paragraph (s), the reference to "§ 630.25(b)" is revised to read "§ 630.25(c)"; in paragraph (t), the reference to "§ 630.25(c)" is revised to read "§ 630.25(d)"; and in paragraph (u), the reference to "§ 630.25(d)" is revised to read "§ 630.25(e)".

3. In § 630.24, paragraphs (b)(1) and (c) are revised to read as follows:

§ 630.24 Quotas.

* * * * *

(b) * * *

(1) The annual quota for the directed fishery for swordfish is 7.0 million pounds (3.18 million kg), dressed weight, divided into two semi-annual quotas as follows:

(i) For the semi-annual period January 1 through June 30—

(A) 47,583 pounds (21,584 kg), dressed weight, that may be harvested by drift gillnet; and

(B) 3,452,417 pounds (1,566,066 kg), dressed weight, that may be harvested by longline and harpoon.

(ii) For the semi-annual period July 1 through December 31—

(A) 47,583 pounds (21,584 kg), dressed weight, that may be harvested by drift gillnet; and

(B) 3,452,417 pounds (1,566,066 kg), dressed weight, that may be harvested by longline and harpoon.

* * * * *

(c) *Bycatch quota.* The annual bycatch quota for swordfish is 560,000 pounds (254,014 kg), dressed weight.

* * * * *

4. In § 630.25, in the first sentence of pargraph (b), the parenthetical phrase "(9,766 kg)" is revised to read "(9,752 kg)", and paragraph (d) is revised to read as follows:

§ 630.25 Closures and bycatch limits.

* * * * *

(d) *Bycatch limits in the non-directed fishery.* Aboard a vessel using or having aboard gear other than drift gillnet, harpoon, or longline, other than a vessel in the recreational fishery—

(1) A person may not fish for swordfish from the North Atlantic swordfish stock;

(2) Except as specified in paragraph (d)(3) of this section, no more than two swordfish per trip may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. latitude, or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state; and

(3) Aboard a vessel in the squid trawl fishery, no more than five swordfish per trip may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. latitude, or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state. For the purposes of this paragraph (d)(3), a vessel is considered to be in the squid trawl fishery when it has no commercial fishing gear other than trawl gear aboard and squid constitute not less than 75 percent by weight of the total fish aboard or off-loaded from the vessel.

* * * * *

[FR Doc 92–12047 Filed 5–21–92; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 57, No. 100
Friday, May 22, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 92-069-1]

Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits to Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that 12 environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC 20250, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612. For copies of the environmental assessments and findings of no significant impact, write to Clayton Givens at the same address. Please refer to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit No.	Permittee	Date issued	Organisms	Field test location
91-347-01	Monsanto Agricultural Company	04-14-92	Cotton plants genetically engineered to overproduce the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and/or a metabolizing enzyme for tolerance to the herbicide glyphosate.	Baldwin County, Alabama.
91-347-02	Monsanto Agricultural Company	04-15-92	Cotton plants genetically engineered to express a *Bacillus thuringiensis* subsp. *kurstaki* strains HD-1 and HD-73 delta-endotoxin protein for lepidopteran insect resistance.	Baldwin County, Alabama; Pinal and Yuma Counties, Arizona; Jefferson County, Arkansas; Kern County, California; Tift County, Georgia; Bossier and Tensas Parishes, Louisiana; Oktibbeha, Leflore, Washington, and Bolivar Counties, Mississippi; Darlington County, South Carolina; Hale, Burleson, Refugio, Hidalgo, Nueces, and Floyd Counties, Texas.
91-353-01	DNA Plant Technology Corporation.	04-15-92	Tobacco plants genetically engineered to express a chitinase gene and/or beta-1, 3-glucanase genes to confer resistance to pathogenic fungi.	Contra Costa County, California.

Permit No.	Permittee	Date Issued	Organisms	Field test location
91-352-02	Pioneer Hi-Bred International, Incorporated.	04-15-92	Alfalfa plants genetically engineered to express the coat protein gene of the alfalfa mosaic virus (AMV) for resistance to AMV.	Franklin County, Washington.
91-357-02	Calgene, Incorporated	04-15-92	Potato plants genetically engineered to express a coat protein of the potato leaf roll virus (PLRV) and a *Bacillus thuringiensis* subsp. *tenebrionis* (Btt) protein to confer resistance to PLRV and Colorado potato beetle.	Bingham and Canyon Counties, Idaho.
91-049-03	Petoseed Company, Incorporated	04-15-92	Tomato plants genetically engineered to express anti-sense gene constructs of polygalacturonase (PG), pectinesterase (PE), and ethylene forming enzymes, to modify ripening.	Yolo County, California.
91-346-01	Calgene, Incorporated	04-16-92	Rapeseed plants genetically engineered to express anti-sense desaturase and thioesterase oil modification genes.	Huron, Missaukee, and Presque Isle Counties, Michigan.
91-002-03	Pioneer Hi-Bred International, Incorporated.	04-16-92	Corn plants genetically engineered to express a coat protein gene from maize chlorotic dwarf virus (MCDV) for resistance to MCDV, and the selectable marker phosphinothricin acetyltransferase from *S. hygroscopicus* for tolerance to the herbicide glufosinate.	Obion County, Tennessee.
91-357-01	Calgene, Incorporated	04-17-92	Cotton plants genetically engineered to express a bromoxynil tolerance gene from *Klebsiella ozaenae* and a *Bacillus thuringiensis* (cry 1A(c)) gene, to confer resistance to lepidopteran insects.	Pinal County, Arizona; Washington County, Mississippi; Darlington County, South Carolina.
91-333-03	Calgene, Incorporated	04-20-92	Cotton plants genetically engineered to express a *Bacillus thuringiensis* subsp. *kurstaki* delta-endotoxin protein for resistance to lepidopteran insects.	Washington County, Mississippi.
91-350-01	University of Idaho	04-20-92	Potato plants genetically engineered to express poty-virus-and luteo-virus-derived genes to obtain resistance to potato virus Y (PVY) or potato leaf roll virus (PLRV).	Canyon County, Idaho.
91-360-01	Monsanto Agricultural Company	04-21-92	Potato plants genetically engineered to express a protein from *Bacillus thuringiensis* for resistance to Colorado potato beetle (CPB), and to express cost protein genes from potato leaf roll virus (PLRV), potato virus X (PVX), and potato virus Y (PVY), for resistance to PLRV, PVX, and PVY.	Canyon and Bingham Counties, Idaho; Aroostook County, Maine; Otsego County, Michigan; Umatilla County, Oregon; and Benton and Othello Counties, Washington.

The environmental assessments and findings of no significant impact have been prepared in accordance with:

(1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*);

(2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508);

(3) USDA Regulations Implementing NEPA (7 CFR part 1b); and

(4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 18th day of May 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-12039 Filed 5-21-92; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 92-071-1]

Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits to Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that two environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, 20250, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612. For copies of the environmental assessments and findings of no significant impact, write to Clayton Givens at the same address. Please refer

to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact of the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit No.	Permittee	Date issued	Organisms	Field test location
92-015-03	Monsanto Agricultural Company	04-24-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Bolivar County, Mississippi.
92-035-03	Campbell Research and Development.	04-24-92	Tomato plants genetically engineered to express an anti-sense polygalacturonase (PG) gene.	Yolo County, California.

The environmental assessments and findings of no significant impact have been prepared in accordance with:

(1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*);

(2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508);

(3) USDA Regulations Implementing NEPA (7 CFR part lb); and

(4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 18th day of May 1992.

Robert Melland

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-12040 Filed 5-21-92; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 92-072-1]

Receipt of Permit Application for Release Into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an application for a permit to release genetically engineered organisms into the environment is being reviewed by the Animal and Plant Health Inspection Service. The application has been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: Copies of the application referenced in this notice, with any confidential business information deleted, are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. You may obtain a copy of this document by writing to the person listed under "**FOR FURTHER INFORMATION CONTACT.**"

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) into the United States certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following application for a permit to release genetically engineered organisms into the environment:

Application No.	Applicant	Date Received	Organisms	Field test location
92-113-01, renewal of permit 90-135-01, issued on 09-04-90.	University of Wisconsin-Madison.	04-22-92	*Pseudomonas syringae* genetically engineered to be avirulent through the use of Tn5.	Columbia County, Wisconsin.

Done in Washington, DC, this 18th day of May 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-12041 Filed 5-21-92; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 92-068-1]

Receipt of Permit Application for Release Into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that four applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: Copies of the applications referenced in this notice, with any confidential business information deleted, are available for public inspection in room 1141, South Building, U.S. Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. You may obtain a copy of these documents by writing to the person listed under "**FOR FURTHER INFORMATION CONTACT.**"

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) into the United States certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

Application No.	Applicant	Date received	Organisms	Field Test location
92-105-01, renewal of permit 91-107-06, issued on 06-18-91.	Calgene, Incorporated	04-14-92	Cotton plants genetically engineered to express a nitrilase enzyme for tolerance to the herbicide bromoxynil.	Washington County, Mississippi.
92-105-02	Holden's Foundation Seeds, Incorporation.	04-14-92	Corn plants genetically engineered to express male sterility linked with kanamycin or phosphinothricin tolerance as markers.	Iowa County, Iowa.
92-106-01	Calgene, Incorporated	04-15-92	Cotton plants genetically engineered to express a nitrilase enzyme for tolerance to the herbicide bromoxynil.	Maricopa County, Arizona; Darlington County, South Carolina.
92-108-01	Monsanto Agricultural Company.	04-17-92	Soybean plants genetically engineered to express the enzyme 5-enol-pyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Kalamazoo County, Michigan.

Done in Washington, DC, this 18th day of May 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-12042 Filed 5-21-92; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Final Supplemental Environmental Impact Statement for the Shawnee National Forest Land and Resource Management Plan

AGENCY: Forest Service, Eastern Region, USDA

ACTION: Notice of availability of FSEIS, withdrawal of Record of Decisions for the Amended Land and Resource Management Plan and Oil and Gas Leasing, and issuance of new Records of Decision with minor changes to the Amended Land and Resource Management Plan.

SUMMARY: The Department of Agriculture, Forest Service has withdrawn the March 23, 1992 Record of Decision for the Amended Land and Resource Management Plan and the Record of Decision for Oil & Gas Leasing. Both Records of Decision have been reissued with a new decision date of May 14, 1992, and with a minor change in the Amended Forest Plan guidelines for the Indiana and gray bats. All persons who received the original Records of Decision have been notified

of the new decisions and changes in the Amended Forest Plan.

On April 30, 1992, the U.S. Fish and Wildlife Service issued a Biological Opinion on the Amended Forest Plan, which also includes oil and gas leasing. The Biological Opinion stated that "the issuance and implementation of the Amended Plan is not likely to jeopardize the continued existence of any of the seven federally-listed species on the Shawnee, nor result in the destruction or adverse modification of any designated critical habitat." It also stated that "the Forest Service is promoting the Conservation and recovery of four federally-listed species known to occur on the Shawnee." However, the Biological Opinion also includes new requirements for monitoring and reporting and requires a 15-day extension of the seasonal restrictions on tree cutting within filter strips.

The standards and guidelines for Indiana and gray bats have been changed in order to be consistent with all provisions of the Biological Opinion issued by the U.S. Fish and Wildlife Service. The effect of making these changes will be to increase protection of Indiana and gray bats and reduce potential disturbance to habitat during the normal maternity season.

After considering the Biological Opinion from the U.S. Fish and Wildlife Service, the responsible official again concluded that Alternative 5 (with the above listed changes) is the best overall choice to implement as the Amended Forest Plan. The reasons for that decision are given in the Records of Decision for the Amended Forest Plan and for Oil and Gas Leasing.

As a result of the new decision date, the Amended Plan will not be implemented until 30 days after the notice of availability is filed in the Environmental Protection Agency's section of the **Federal Register**. The 90-day appeal period will begin the day following public notice in the Milwaukee Journal newspaper.

Any questions about the reissuance of the Amended Forest Plan and Oil & Gas Records of Decision or the changes in bat guidelines, should be directed to Sam Emmons at (618) 253–7114.

The Forest Service official responsible for this decision is Regional Forester Floyd J. Marita, Eastern Region, 310 W. Wisconsin Ave. rm. 500, Milwaukee, WI 53203.

Dated: May 14, 1992.

Floyd J. Marita,

Regional Forester.

[FR Doc 92–11977 Filed 5–21–92; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List Additions

AGENCY: Committee for Pruchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List extreme cold weather drawers to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 22, 1992.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On March 13, 1992, the Committee for Purchase from the Blind and Other Severly Handicapped published a notice (57 FR 8863) of the proposed addition of these drawers to the Procurement List. Comments were received from a former contractor for the drawers, alleging that their addition to the Procurement List would cause irreparable harm to the company and its community. The contractor noted that it has supplied the drawers to the Government over the past twelve years and is one of a few manufacturers capable of performing all operations necessary to produce the drawers. It also claimed that its community has consistently experienced a much higher percentage of unemployment than the national average over a number of years.

The company is not the current contractor for the drawers, although it has supplied them to the Government in the recent past. However, the company has provided no information to support the conclusion that it is dependent on sales of the drawers to the Government. While the contractor has not indicated the amount of its total sales, the Committee has determined from other sources that the annual contract value of the drawers represents a fairly small percentage of the company's total annual sales. In this case, the Committee does not consider the sales loss involved to be severe adverse impact, particularly because the contractor does not currently hold a contract for the item and, under the competitive bidding system, is not guaranteed one in the future.

With regard to its claim that its local unemployment rate consistently exceeds the national average, the Committee is aware that the national unemployment rate for persons with sever disabilities exceeds 65 percent. Consequently, the Committee believes that any possible loss of jobs at this company is outweighed by the creation of jobs for persons with severe disabilities through this addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodities at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small orgnaizations that will furnish the commodities to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List:

Drawers, Extreme Cold Weather
8415–00–782–3226
8415–00–782–3227
8415–00–782–3228
8415–00–782–3229
8415–01–051–1175

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc 92–12076 Filed 5–21–92; 8:45 am]

BILLING CODE 6820–33–M

Procurement List Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List of commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 22, 1992.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: On March 13, 27 and April 3, 1992, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (57 FR 10652, 8863 and 11468) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodity and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity or services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity or services.

3. The action will result in authorizing small entities to furnish the commodity or services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodity or services proposed for addition to the Procurement List.

Accordingly, the following commodity and service are hereby added to the Procurement List:

Commodity

Enema Administration Set 6530-00-117-8991

Services

Grounds Maintenance, Department of the Navy, at the following locations:

DOD Housing Facilities, Novato, California

Point Molate Housing Facilities, Richmond, California

Janitorial/Custodial, Federal Building, U.S. Courthouse and Customhouse, Fort Lauderdale, Florida

Mail and Messenger Service, U.S. Army Corps of Engineers, Huntsville, Alabama.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-12077 Filed 5-21-92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 22, 1992.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities and services to the Procurement List:

Commodities

Kit, Wee-Deliver Starter, P.S. Item T012M

Nonprofit Agency: New Horizons of Oakland County, Inc. Bloomfield Hills, Michigan at its facility in Novi, Michigan

Aerosol Paint, Lacquer, 8010-00-958-8150

Nonprofit Agency: The Lighthouse for the Blind Berkeley, Missouri

Services

Janitorial/Custodial, Federal Aviation Administration, Air Route Traffic Control Center, 326 E. Lorain Street, Oberlin, Ohio

Nonprofit Agency: Murray Ridge Production Center, Inc. Elyria, Ohio

Janitorial/Custodial, Tacoma Union Station Federal Building, 1733-1739 Pacific Avenue, Tacoma, Washington

Nonprofit Agency: Vadis Northwest Sumner, Washington

Switchboard Operation, Keesler Air Force Base, Mississippi

Nonprofit Agency: Goodwill Industries of South Mississippi, Inc., Gulfport, Mississippi.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-12078 Filed 5-21-92; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders, findings and suspension agreements with April anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: May 22, 1992.

FOR FURTHER INFORMATION CONTACT: Roland L. MacDonald, Office of Antidumping Compliance, International Trade Administration, Department of Commerce, Washington, DC 20230, telephone (202) 377–2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with § 353.22(a)(1) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements, with April anniversary dates.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders, findings, and suspension agreements. We intend to issue the final results of these reviews not later than April 30, 1993.

	Periods to be reviewed
Antidumping Duty Proceedings and Firms:	
Japan:	
Electrolytic Manganese Dioxide—A–588–806	
Tosoh Corporation	4/1/91–3/31/92
Roller Chain, Other Than Bicycle—A–588–028	
Daido Kogyo	4/1/91–3/31/92
Enuma	
Hitachi Metals	
Izumi	
Pulton Chain	
RK Excel (Takasago)	
Sugiyama	
3.5" Microdisks and Coated Media Thereof—A–588–802	
Hitachi Maxell, Ltd.	4/1/91–3/31/92
Korea:	
Color Television Receivers—A–580–008	
Cosmos Electronics Manufacturing Korea, Ltd.	4/1/91–3/31/92
Daewoo Electronics Co., Ltd.	
Goldstar Co., Ltd.	
Quantronics Manufacturing Korea, Ltd.	
Samsung Electronics Co., Ltd.	
Samwon Electronics, Inc.	
Tongkook General Electronics, Inc.	
Mexico:	
Certain Fresh Cut Flowers—A–201–601	
Visaflor	4/1/91–3/31/92
Aguaje	
Toro	
Guacatay	
Norway:	
3Fresh and Chilled Atlantic Salmon—A–403–801	
Skaarfish	10/3/90–3/31/92
Salmonor	
Taiwan:	
Color Television Receivers—A–583–009	
Action Electronics Co., Ltd.	4/1/91–3/31/92
AOC International, Inc.	
Funai Electric Co., Ltd.	
Hitachi Television (Taiwan) Ltd.	
Kuang Yuan Co., Ltd.	
Nettek Corp., Ltd.	
Paramount Electronics Co., Ltd.	
Proton Electronic Industrial Co., Ltd.	
Sampo Corporation	
Sanyo Electron (Taiwan) Co., Ltd.	
Shinlee Corporation	
Tatung Company	
TCE Television Taiwan Ltd. (RCA Taiwan, Ltd.)	
Teco Electric & Machinery Co., Ltd.	
Countervailing Duty Proceedings:	
Brazil:	
Pig Iron—C–351–062	1/1/91–12/31/92

Interested parties must submit applications for administrative protective orders in accordance with § 353.34(b) and § 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.22(c) and 355.22(c) (1989).

Dated: May 14, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-11962 Filed 5-21-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-810]

Final Determination of Sales at Less Than Fair Value: High-Tenacity Rayon Filament Yarn From Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 22, 1992.

FOR FURTHER INFORMATION CONTACT: Edward Easton or Cynthia Thirumalai, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1777 or (202) 377-8498, respectively.

FINAL DETERMINATION: We determine that high-tenacity rayon filament yarn is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the issuance of our notice of preliminary determination (published in the **Federal Register** on February 20, 1992 (57 FR 6088)), the following events have occurred.

On February 19, 1992, the North American Rayon Corporation, petitioner in this proceeding, requested that the scope of investigation be clarified to eliminate the single-yarn limitation stated in the notice of initiation and to include items covered by Harmonized Tariff Schedule (HTS) item number 5403.10.60.00. On February 28, 1992, Respondent, Akzo Faser AG and Akzo Fibers Inc. (collectively Akzo), objected to a revision of the scope language.

On March 20, 1992, Akzo submitted additional information in response to the Department of Commerce's (the Department's) February 7, 1992, request. On March 30, Akzo corrected an earlier response to the Department's questionaire. It also submitted revised home market, purchase price, and exporter sales price (ESP) databases, and cost of production (COP) and constructed value (CV) datasets on April 6, 1992. This submission incorporated all of the revisions it had made to its questionnaire responses.

Sales verification took place March 9-13, 1992, at the corporate headquarters of Akzo NV (the parent company of Akzo Faser AG and Akzo Fibers Inc.) in Arnhem, the Netherlands, and at Akzo Faser AG in Wuppertal, Germany. The ESP verification was held March 30-31, 1992, at Akzo Fibers Inc., in Conyers, Georgia. The COP verification took place March 16-20, 1992, at Akzo NV in Arnhem and at Akzo Faser AG in Obernburg, Germany.

Based on Akzo's April 1, 1992, request, we postponed the final determination until May 15, 1992 (57 FR 14385, April 20, 1992).

We received requests for a public hearing from respondent on February 25, 1992, and from petitioner on February 28, 1992. Both petitioner and respondent filed case briefs on April 20, 1992, and rebuttal briefs on April 22, 1992. A public hearing was held on April 27, 1992, during which petitioner requested the opportunity to address additional issues. Petitioner's request was granted and on April 28, 1992, it submitted a supplemental rebuttal brief on April 28, 1992.

Scope of Investigation

The product coverd by this investigation is high-tenacity rayon filament yarn. High-tenacity rayon filament yarn is a multifilament single yarn of viscose rayone with a twist of five turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex. This yarn is currently classifiable under subheading 5403.10.30.40 of the HTS. Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1991, through September 30, 1991.

Such or Similar Comparisons

When possible, product comparisons were made between sales of identical merchandise. For those U.S. sales transactions for which there was no above-cost, identical comparison product, we made our comparions to similar products adjustd for differences in merchandise.

Fair Value Comparisons

Tjo determine whether sales of high-tenacity rayon filament yarn from Germany to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We calculated USP using the methodology described in the preliminary determination. Based on our findings at verification, we modified respondent's U.S. databases as follows: Credit expenses on purchase price sales and inventory carrying expenses for all U.S. sales were recalculated to reflect changes in respondent's home market short-term interest rate; non-U.S. indirect selling expenses were recalculated to remove certain expenses that respondent was unable to support at verification; and U.S. indirect selling expenses on ESP sales were corrected to eliminate the double-counting of certain expenses. Missing payment dates for U.S. sales were set at the date of this determination, May 15, 1992.

Foreign Market Value

In accordance with section 773(a)(1)(B) of the Act, we found that the home market was viable for sales of high-tenacity rayon filament yarn.

We calculated FMV using the methodology described in the preliminary determination. Based on our findings at verification, we made changes to the home market database as follows: Home market credit expenses and inventory carrying costs were modified to reflect the recalculation of respondent's home market short-term interest rate; reported third party payments to a customer not found to be eligible for the same were disregarded; and a portion of indirect selling expenses was disallowed because respondent was unable to demonstrate its accuracy at verification.

Cost of Production

Petitioner alleged that respondent's home market sales of high-tenacity rayon filament yarn were made at prices below COP.

Based on our COP analysis, we found that between ten and 90 percent of respondent's sales were at prices above the total COP of high-tenacity rayon filament yarn. Respondent provided no information demonstrating that costs would be recovered over a reasonable period of time. Therefore, we disregarded the below-cost sales and

limited FMV to respondent's above-cost home market sales.

Critical Circumstances

Petitioner alleged that critical circumstances exist with respect to imports of high-tenacity rayon filament yarn from Germany. In our preliminary determination, we concluded that critical circumstances existed. For the final determination, based on the methodology described in the preliminary determination and including an analysis of five-month comparison periods, we find that imports have been massive over a relatively short period of time and that knowledge of dumping exists. As such, we continue to find that critical circumstances exist in accordance with 19 CFR 353.16 with respect to imports of high-tenacity rayon filament yarn from Germany. (See Comment 2.)

Currency Conversion

We made all currency conversions in accordance with 19 CFR 353.60 by using the exchange rates certified by the Federal Reserve Bank of New York.

Verification

As provided in section 776(b) of the Act, we verified information provided by respondent by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Interested Party Comments

Comment 1: Petitioner argues that the petition filed with the Department and the International Trade Commission (ITC) should be read to cover high-tenacity rayon filament yarn, whether or not the yarn is a single yarn or a piled (or cabled) yarn.

On February 19, 1992, petitioner submitted a "clarification" of the product scope in its petition. The clarification sought to add merchandise classified under HTS item 5043.10.60.00 to the types of high-tenacity rayon yarn covered by this investigation. In its case brief, petitioner also argued that high-tenacity rayon filament yarn, whether single or piled (or cabled) is one class or kind of merchandise within the criteria set forth in *Diversified Products Corporation* v. *United States* (*Diversified Products*), 572. F. Supp. 883 (CIT 1983), and *Kyowa Gas Chemical Industry Company, Ltd.* v. *United States* (*Kyowa Gas*), 582 F. Supp. 887 (CIT 1984). At the public hearing, petitioner further argued that because both single yarn and plied (or cabled) yarn comprise one class or kind of merchandise, an amendment to the Department's scope of investigation is not necessary.

Respondent states that the petition explicitly limited the scope of covered imports to certain single yarns covered by HTS item 5403.10.30.40. Further, respondent argues that the Explanatory Notes to the HTS limit this item to single yarn only.

DOC Position: We agree with respondent. The petition alleged only that certain of the single yarns classified under HTS item 5043.10.30.40 were being, or were likely to be, sold in the United States at less than fair value. At no time during the investigation did petitioner amend the petition to submit information and/or allegations that imports of any particular products of non-single, high-tenacity rayon filament yarn from Germany were being, or were likely to be, sold in the United States at less than fair value. The Department has been provided no basis upon which to expand the original scope of investigation. Moreover, petitioner's reliance on the argument that the single and plied (or cabled) yarns constitute a single class or kind of merchandise within the meaning of the *Diversified Products* and *Kyowa Gas* cases is misplaced. These cases involve the analysis required to determine whether or not a particular product should be included within the scope where ambiguity exists. In this investigation, there is no question that the scope is limited to certain single yarn within HTS item 5403.10.30.40. Accordingly, plied (or cabled) yarns are outside the scope of this proceeding.

Comment 2: Petitioner asserts that the Department should conclude for the final determination that critical circumstances exist with respect to imports of high-tenacity rayon filament yarn from Germany. According to petitioner, imports of high-tenacity rayon filament yarn into the United States by respondent increased significantly during the period subsequent to the filing of the petition (by examination of both three-month and five-month comparisons periods). Petitioner also contends that the Department should continue to use the weighted-average benchmark used in the preliminary determination to compare to the estimated dumping margin in determining whether importers knew, or should have known, that the product was being imported at less than fair value.

Respondent contends that the Department's use of the weighted-average benchmark was a significant departure from its past practice and had the effect of lowering the established standard for imputing importer knowledge on purchase price sales. According to respondent, the Department should maintain its practice of imputing importer knowledge on purchase price sales when the estimated dumping margin is greater than or equal to 25 percent (see Final Determination of Sales at Less Than Fair Value: Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy (52 FR 24198, June 29, 1987)).

Respondent also states that the increase in shipment volume after the filing of the petition was attributable to large fluctuations in monthly shipment volumes typical of the industry and to lower-than-usual shipment levels in the months preceeding the filing of the petition. Respondent asserts that this latter situation was relied upon by the Department in its negative determination on critical circumstances in the Preliminary Determination of Sales at Less Than Fair Value: Sodium Thiosulfate from the People's Republic of China (*Sodium Thiosulfate*) (55 FR 51140, December 12, 1990). In that determination, the Department found that imports were not massive because the increase was attributable to abnormally low volume in the previous month. Respondent contends that the Department should find that the imports in this investigation, like those in the *Sodium Thiosulfate* case, have not been massive. Respondent also argues that the yearly shipment volume for 1991, compared with that for 1992, further demonstrates that imports were not massive.

DOC Position: We agree with petitioner that imports were massive within the meaning of 19 CFR 353.16(a)(2). While large variations in monthly shipment levels were found to be typical, an analysis of respondent's shipment data showed a marked increase in monthly shipment levels during the period between the filing of the petition and the preliminary determination. This increase is apparent when compared with the smaller shipment levels exhibited for a number of months before the filing of the petition. In *Sodium Thiosulfate*, the decrease in shipment volume during the month preceding the filing of the petition was contrasted with normally steady shipment levels. Furthermore, respondent has not provided information indicating that the relatively small shipment levels during the preceding months were atypical.

We also agree with petitioner that using the weighted-average benchmark is appropriate in situations where, as here, there are both purchase price and

ESP transactions and the Department must determine whether importers knew, or should have known, that the merchandise was being imported at less than fair value. In this case, both the purchase price sales and the resales by Akzo Fibers Inc. were made to a limited number of converters and end users during the POI. It would make no sense for the Department to limit, in effect, its critical circumstances analysis only to those shipments from Akzo's Georgia warehouse while contemporaneous shipments directly from U.S. ports were taking place. In any event, the margin percentage on purchase price sales is sufficiently close to the 25 percent purchase price benchmark for the Department to find that importers knew, or should have known, that the merchandise was being sold at less than fair value.

Therefore, we find that critical circumstances exist under 19 CFR 353.16 with respect to imports of high-tenacity rayon filament yarn from Germany.

Comment 3: Petitioner contends that respondent did not report all of its selling expenses for purposes of calculating COP. In addition to sales by departments in Arnhem, the Netherlands, within the Industrial Fibers business unit for which selling expense were reported, there were home market sales made by Akzo Faser AG through a business unit of the Fibers Division of its parent company (Akzo NV), also located in Arnhem. Petitioner argues that the selling expenses of Akzo NV must be included in Akzo Faser's COP calculation. Furthermore, petitioner contends that selling expenses for Akzo Faser's subsidiary, Kuag Textil GmbH (Kuag), also should be reported because there were sales by Kuag of the subject merchandise during the POI. In addition, petitioner states that respondent did not include in its COP information an allocation of general and administrative (G&A) expenses of Akzo NV. Petitioner proposes that the Department disregard respondent's reported selling, general and administrative (SG&A) expenses and instead use Akzo's 1990 consolidated financial statement to calculate these expenses as the best information available (BIA).

Respondent states that the sales departments in Arnhem responsible for sales of subject merchandise in Germany are part of Akzo Fibers BV because they are physically located in the Netherlands. On a consolidated basis, they are also part of Akzo NV. They are not, however, separate sales departments. According to respondent, expenses relating to these sales departments were properly included in those attributable to the Industrial Fibers business unit. Expenses of the Industrial Fibers business unit were then allocated to different products based on respondent's established accounting system. Respondent agrees with petitioner that it did not report any additional selling expenses for Kuag operations; however, it did not claim an adjustment to home market price for these sales either. Since Kuag sales of industrial rayon (including merchandise not subject to this investigation) amounted to approximately 0.2 percent of total reported home market sales during the POI, inclusion or exclusion of these expenses could not affect the calculation of dumping margins. Finally, respondent argues that using the consolidated financial statement of a diversified, multi-product company such as Akzo to calculate average SG&A expenses would not properly reflect selling expenses associated with a particular product line.

DOC Position: We agree with respondent that SG&A expenses of Akzo Faser AG and Akzo BV include costs that were allocated on a product-specific basis during the normal course of business. The expenses of different divisions and the corporate office are allocated to all operating units on a prescribed basis. We verified the items allocated and the allocation methodology, which we determined to be reasonable. We also verified that the administrative expenses of the parent company were included and allocated to the operating units. With regard to the selling expenses of Kuag, respondent reported its total sales during the POI on January 21, 1992. We determined that the selling expenses of Kuag, when allocated to the subject merchandise, are immaterial.

Comment 4: Petitioner asserts that respondent's reported actual costs are understated. This assertion is based on petitioner's comparison of two verification exhibits. The first is an annual income statement for all fiber products, and the second consists of monthly cost data.

Respondent asserts that the differences in costs noted by petitioner result from the fact that the figures in the first exhibit apply to all industrial rayon products while the data in the second relate only to the production of yarn.

Department's Position: We agree with respondent. The Department verified the submitted COP data for the subject merchandise. The alleged discrepancies result from an inappropriate comparison of cost data concerning multiple products with cost data relating to a single product.

Comment 5: Respondent argues that for the final determination, the Department should allow an adjustment to home market price for interest revenue when conducting the cost test because such an adjustment would reflect actual revenues received, not imputed amounts.

Petitioner contends that interest revenues are akin to credit expenses and, as such, are normally treated as circumstance of sale (COS) adjustments. Since the Department does not make COS adjustments when comparing foreign market prices to COP, an adjustment for interest should not be made to home market prices. If the Department were to adjust home market prices for interest revenue received, then it should also deduct credit expenses. Petitioner also points out that the interest expense used to calculate COP was computed net of interest revenue. Therefore, any adjustment to home market price would result in adjusting both COP and the price compared with COP (*i.e.*, double counting).

DOC Position: We agree in part with both petitioner and respondent. Home market prices should be adjusted for interest revenue for purposes of the cost test. Respondent offers its customers an early payment discount and allows them this discount if payment is made by an interest-bearing note. At verification, we found that at the date of payment by note, the principal amount, interest rate and duration of customers' interest-bearing drafts were set. Therefore, the interest revenues received were actual, not imputed, amounts. The payment of interest on drafts amounted to a premium on the price paid in exchange for the use of certain payment terms and the availability of early payment discounts. Accordingly, the interest revenue was a component of the price that the customer agreed to pay for the product and it is appropriate for the Department to include it in the net price to be compared to COP. To eliminate any double counting of interest revenues, we deducted the amount of interest revenue attributable to sales of the subject merchandise from the short-term interest revenue on the consolidated financial statement allocated to the subject merchandise. The latter was then used as an offset to the total interest expense in the COP calculation.

Comment 6: Respondent asserts that actual purchase prices for raw material inputs paid to related parties should be used to calculate COP and CV. It

maintains that the transfer prices are arm's length market prices and are above the related producer's production cost.

Department's Position: We agree with respondent in part. The Department verified that the transfer prices were above the production cost and are at market prices. Although the Department normally uses the actual production cost for purchases from entities which are under common control, any adjustment from the purchase price to the production cost in this case would result in insignificant changes to the calculation of COP and, therefore, was not made.

Comment 7: Petitioner asserts that restructuring costs for plant closings should be included in G&A expenses because, according to U.S. generally accepted accounting principles (GAAP), losses from plant closings are not extraordinary and do not provide a future benefit.

Respondent maintains that the restructuring in this case is related to organizational changes intended to rationalize its corporate operations. Such restructuring costs are considered non-recurring, extraordinary expenses under Netherlands GAAP and are reflected as such in its financial statements. Respondent contends that its restructuring differs from the plant closing described in the Final Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from Taiwan, (55 FR at 34596–34597, August 23, 1990). In that case there was a single isolated plant closing. Therefore, the Department should not include any of the restructuring costs in calculating COP or CV. Respondent also claims that exclusion of the restructuring costs is consistent with Antidumping Policy Paper B (written in the early 1980s) that had been prepared by the Department's Office of Policy. However, should the Department include any restructuring expenses, respondent argues that it should offset the expense with the gains incurred from divestments.

DOC Position: We agree in part with both petitioner and respondent. Respondent incurred gains and losses on divestments and restructuring. These net losses represent expenses of the entire corporation. Although these restructuring expenses are treated as extraordinary in respondent's financial statements, COP must recapture all costs incurred by the corporation. Therefore, the Department included the net expenses before taxes, and allocated these expenses, based on cost of sales, over the entire corporation.

Comment 8: Petitioner claims that respondent has not reported any direct selling expenses for its U.S. operations by referencing respondent's submission of December 16, 1991 (at page 44). Also, petitioner asserts that respondent's cumulation of U.S. indirect selling expenses failed to include indirect selling expenses of Akzo America Inc., the U.S. parent company of Akzo Fibers Inc. In addition, some of the items classifed as indirect selling expenses should properly have been classified as direct selling expenses. Petitioner also objects to respondent's failure to allocate U.S. indirect selling expenses based on a fixed percentage. Finally, petitioner contends that respondent's U.S. selling expenses are underreported and that the amount reported for indirect selling expenses does not reconcile to Akzo Industrial Fibers' December 31, 1991, year-to-date income statement. Petitioner proposes that the Department disregard respondent's reported selling expenses and, instead, rely upon entity-wide selling expenses as BIA.

Respondent asserts that in its December 16, 1991, submission, it stated that "Akzo does not incur any direct selling expense in the United States *not already reported elsewhere* [emphasis added] in this response." With respect to indirect selling expenses of the parent company, respondent asserts that while Akzo America did not engage in any selling functions in connection with rayon, Akzo Fibers did include all appropriate corporate costs in its calculation of U.S. indirect selling expenses. Respondent states that the expenses which petitioner argues should have been classified as direct selling expenses were either properly reported as indirect selling expenses or were so small as to have been immaterial. With regard to the allocation of U.S. indirect selling expenses, respondent argues that its methodologies were based on an examination of the individual expenses, were reasonable, and were verified by the Department. Respondent also contends that since the POI was only six months, the total of its reported selling expenses should not correspond to those found on Akzo Industrial Fibers' December 1991 year-to-date income statement which included expenses for the full year.

DOC Position: We agree with respondent. We reviewed both the direct and the indirect expenses reported by respondent, and verified the items that were allocated and the allocation methodologies used. We determined that the allocations were reasonable. Although an audited financial statement for Akzo America Inc., did not exist for 1991, we were able to trace the data reported for the POI to the 1991 year-end summary of the monthly income statements or Akzo Industrial Fibers and another business unit within Akzo Fibers Inc., for consolidation by Akzo Fibers Inc.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directly the Customs Service to continue to suspend liquidation of all entries of high-tenacity rayon filament yarn that are entered, or withdrawn from warehouse, for consumption on or after November 20, 1991, which is 90 days before the date of publication of our preliminary determination in the **Federal Register**. The Customs Service shall require a cash deposit or bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer/ manufacturer/exporter	Weighted-Average margin percentage	Critical circum-stances
Akzo	24.58	Yes.
All Others	24.58	No

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: May 15, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc 92–12091 Filed 5–21–92; 8:45 am]

BILLING CODE 3510–DS–M

[A-508-602]

Amendment of Final Results of Antidumping Duty Administrative Reviews: Oil Country Tubular Goods From Israel

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: May 22, 1992.

FOR FURTHER INFORMATION CONTACT: Vincent Kane or Carole Showers, Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-2815 or 377-3217, respectively.

AMENDED FINAL RESULTS: In accordance with section 751(A)(1) of the Tariff Act of 1930, as amended (the Act), on April 3, 1992, the Department published its Final Results of Antidumping Duty Administrative Reviews: Oil Country Tubular Goods from Israel (57 FR 11463).

After publication of our final results, respondent, the Middle East Tube Company (METCO), alleged that the Department committed a ministerial error in calculating the final margin. We have determined that a ministerial error was committed in calculating the clearing costs for raw materials. (See Memorandum From Susan H. Kuhbach to Francis J. Sailer, dated April 30, 1992.)

We are amending the final results on oil country tubular goods from Israel to correct this ministerial error. As a result, the deposit rate for METCO changes from 15.72 to 15.50 percent of the f.o.b. value. The cash deposit rate for "all others" is also 15.50 percent. This cash deposit rate applies to all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on and after the date of publication of this notice in the Federal Register.

This amendment is published in accordance with section 735(e) of Act.

Dated: May 15, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc 92-12092 Filed 5-21-92; 8:45 am]

BILLING CODE 3510-DS-M

Olivet Nazarene University, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for each of the listed dockets.

Docket Number: 91-143. *Applicant:* Olivet Nazarene University, 240 E. Marsile, Bourbonnais, IL 60914. *Instrument:* Rapid Kinetics Accessory, Model SFA-12. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Date of Denial Without Prejudice to Resubmission:* February 14, 1992.

Docket Number: 91-192. *Applicant:* The Johns Hopkins University, Charles & 34th Streets, Baltimore, MD 21218. *Instrument:* Anemometry System Mainframe, Power Supply, Test Module and Accessories, Model AN-1003. *Manufacturer:* AA Systems Laboratory, Israel. *Date of Denial Without Prejudice to Resubmission:* February 28, 1992.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-12093 Filed 5-21-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

[Docket No. 920253-2053]

Financial Assistance for Research and Development Projects To Provide Information for the Full and Wise Use and Enhancement of Fishery Resources in the Gulf of Mexico and Off the U.S. South Atlantic Coastal States

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of financial assistance.

SUMMARY: For fiscal year (FY) 1992, Marine Fisheries Initiative (MARFIN) funds are available to assist persons in carrying out research and development projects that optimize the use of U.S. Gulf of Mexico and South Atlantic (North Carolina to Florida) fisheries involving the U.S. fishing industry (recreational and commercial), including, but not limited to, harvesting methods, economic analyses, processing, fish stock assessment, and fish stock enhancement, recovery and maintenance. NMFS issues this notice describing the conditions under which applications will be accepted and how NMFS will determine which applications will be funded.

DATES: Applications for funding under this program will be accepted between May 22, 1992 and 6 p.m. e.s.t. on July 6, 1992. Applications received after that time will not be considered for funding

Applications may be inspected at the NMFS Southeast Regional Office (see **ADDRESSES**) from July 6, 1992 to July 13, 1992.

Successful applicants generally will be selected by October 9, 1992.

ADDRESSES: Send applications to: Regional Director, Attn: D. Pritchard, Southeast Regional Office, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Questions of an administrative nature should be referred to: Grants Management Division, Attn: Jean West, Chief, Grants Operations Branch, NOAA, SSMC2, OA321, 1325 East-West Highway, Silver Spring, MD 20910, telephone 301-713-0926.

Send comments on the collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. David Pritchard, 813-893-3720.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Fish and Wildlife Act of 1956, at 16 U.S.C. 753a, authorizes the Secretary of Commerce (Secretary) to conduct research to enhance U.S. fisheries. The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act of 1992 makes funds available to the Secretary for FY 1992. This solicitation makes available approximately $1.8 million (including $404,000 for continuing projects) for financial assistance under the MARFIN program to manage and enhance the use of fishery resources in the Gulf of Mexico and off the South Atlantic states of North Carolina, South Carolina, Georgia and Florida. There is no guarantee that sufficient funds will be available to make awards for all approved projects. U.S. fisheries [1]

[1] For purposes of this notice, a fishery is defined as one or more stocks of fish, including tuna, and shellfish that are identified as a unit based on geographic, scientific, technical, recreational and economic characteristics, and any and all phases of fishing for such stocks. Examples of a fishery are Gulf of Mexico shrimp, groundfish, menhaden, South Atlantic snapper-grouper, etc.

include any fishery that is or may be engaged in by U.S. citizens. The phrase "fishing industry" includes both the commercial and recreational sectors of U.S. fisheries. This program is described in the Catalog of Federal Domestic Assistance under program number 11.433 Marine Fisheries Initiative.

II. Funding Priorities

A. Proposals for FY 1992 should exhibit familiarity with related work that is completed or ongoing. Where appropriate, proposals should be multidisciplinary. Coordinated efforts involving multiple institutions or persons are encouraged. While the areas for priority consideration are listed below, proposals in other areas will be considered on a funds available basis.

In addition to reference to the priorities listed below, proposals should state whether the research will apply to the Gulf of Mexico only, the South Atlantic only, or a combination of both areas. Successful applicants may be required to collect and manage data in accordance with standardized procedures and formats approved by NMFS.

High priority research requirements identified in fishery management plans and amendments prepared by the Gulf and South Atlantic Fishery Management Councils (Councils) and the Gulf and Atlantic States Marine Fisheries Commissions (Commissions) are included by reference.

1. Shrimp Trawler Bycatch

a. Proposals should address how the proposed studies will be coordinated with and contribute to the regional shrimp trawler bycatch program being conducted by NMFS in cooperation with state fishery management agencies, commercial and recreational fishing organizations and interests, environmental organizations, universities, the Councils, and the Commissions.

In particular, the studies should address: (1) Data collections and analyses to expand and update current bycatch estimates temporally and spatially, including offshore, nearshore, and inshore waters. Emphasis should be on inshore and nearshore waters (less than 10 fathoms (18.3 m)).

(2) Assessments of the status and condition of fish stocks significantly impacted by shrimp trawler bycatch, with emphasis given to overfished species under the jurisdiction of the Councils.

(3) Identification, development, and evaluation of gear, non-gear, and tactical fishing options to reduce bycatch.

(4) Social and economic assessments of the impact of bycatch and of bycatch reduction options on coastal communities and industries.

(5) Improved methods for communicating with and improving technology and information transfer to the shrimp industry.

b. For all studies related to shrimp trawler bycatch, applicants must agree to collect and manage data in accordance with guidelines provided by NMFS. These guidelines are being developed as part of the regional cooperative bycatch research program. Additionally, successful applicants may be required to provide their edited, raw and processed data to NMFS in accordance with certain format requirements to become part of a regional bycatch data base (see V.5).

2. Highly Migratory Pelagic Fisheries

a. Longline Fishery, Including Bycatch

A number of pelagic longline fisheries exist in the Gulf and South Atlantic. Most target highly migratory species such as tunas, billfish, some sharks, and swordfish. These fisheries have evolved rapidly over the last decade, with increases in fishing effort and changes in fishing gear and tactics. These changes need to be characterized and their effects quantified. High priority areas include:

(1) Characterization of specific longling fisheries, including targeted species and bycatch catch per unit effort by gear type, area, and season.

(2) Evaluation of vessel log data for monitoring the fisheries.

(3) Development and evaluation of gear and fishing tactics to minimize the bycatch of undersized and unwanted species, including sea turtles and marine mammals.

(4) Assessment of the impact of longline bycatch on related fisheries including biological and economic factors and effects.

b. Sharks

Little is known about shark resources in the Gulf and South Atlantic. A Secretarial Fishery Management Plan (FMP) for sharks has been developed that identifies a number of research needs. In general, these needs can be grouped as:

(1) Characterization of the directed and bycatch commercial and recreational fisheries from existing and new data. Emphasis should be on species, size, and sex composition and catch per unit effort by season, area, and gear type.

(2) Collection and analysis of basic biological data on movements, habitats, growth rates, mortality rates, age composition, and reproduction.

(3) Determination of baseline cost and returns for commercial fisheries that take and retain sharks, and estimations of demand curves for shark products and recreational shark fisheries. Also, research on social values and economic impacts of the shark fisheries.

(4) Development of species profiles and stock assessments for sharks taken in significant quantities by the commercial and recreational directed and bycatch fisheries. Assessments can be species-specific or for species groups, as long as the latter does not differ substantially from the groups identified in the Secretarial Shark FMP.

(5) Identification of coastal sharks using laboratory (tissue analysis) methods.

3. Reef Fish

a. Many species within the reef-fish complex are showing signs of being overfished, either by directed or bycatch fisheries. The ecology of reef fish makes them especially vulnerable to overfishing because they tend to be concentrated over specific types of habitats that are patchily distributed. The patchy distribution of the resource can make traditional fishery statistics misleading, because catch per unit effort can remain relatively high as fishermen move from one area to another, yet overall abundance of the resource can be declining sharply. Proposed studies should concentrate on research areas related to fishery management, including:

(1) Collection of basic biological data for species in virtually all commercially and recreationally important fisheries, with emphasis on stock and species identification, age and growth, early life history, especially source of recruits, and reproductive biology. Especially important is the effect of reproductive mode and sex change (protogynous hermaphroditism) on population size and characteristics, with reference to sizes of fish exploited in the fisheries and the significance to proper management.

(2) Identification and quantification of natural and human-induced mortality (such as the loss of undersize fishes caught in deep water), including the bycatch fisheries.

(3) Mapping and quantification of reef-fish habitat, primarily from existing biological and physical data to determine the effects of habitat alteration or degradation of fish stocks.

(4) Identification and characterization of spawning aggregations by species, areas, and seasons.

(5) Stock assessments to establish the status of major recreational and commercial species. Especially needed are innovative methods for stock assessments on aggregate species.

(6) Research in direct support for management techniques, including catch and release mortality, marine fishery reserves, gear and fishing tactic modifications to minimize bycatch, balancing traditional fisheries use with alternate uses (ecotourism, sport diving), and economic and social studies to evalute impacts of management options.

(7) Examine and evaluate the use of reef-fish marine reserves as an alternative or supplement to current fishery management measures and practices.

(8) Research on recreational fishermen social-economic behavior in the Gulf of Mexico utilizing available data.

b. Additional explanation of research needs for Gulf reef fish is available from a MARFIN supported plan for cooperative reef-fish research in the Gulf of Mexico.

4. Coastal Herrings and Groundfish

Preliminary studies indicate that substantial stocks of coastal herrings and groundfish occur in the Gulf and South Atlantic. Most of the available data come from fishery-independent surveys conducted by NMFS and state fishery management agencies. Because of the size of these stocks, their importance as prey, and in some instances as predator species, and their potential for development as commercial and recreational fisheries need to be understood. General research needs include:

a. Collection, collation, and analysis of available fishery-independent data from state and Federal surveys, with emphasis on species and size composition, seasonal distribution patterns, biomass, and environmental relationships. Emphasis should be given to controversial species such as Spanish sardines.

b. Description and quantification of predator-prey relationships between coastal herring and groundfish species and those such as the markerels, tunas, swordfish, billfish, sharks, and others in high demand by commercial and recreational fisheries.

5. Coastal Migratory Pelagic Fisheries

The demand for many of the species in this complex by commercial and recreational fisheries has led to overfishing for some, such as Gulf king and Spanish mackerel and Atlantic Spanish mackerel. Additionally, some are transboundary with Mexico and other countries and ultimately will demand international management attention. Current high priorities include:

a. Development of recruitment indices for king and Spanish mackerel, cobia, and dolphin, primarily from fishery-independent data sources.

b. Improved definition and quantification of the mixing of king mackerel between the Gulf and South Atlantic stocks, and between the western and eastern groups in the Gulf. More precise information on the boundaries between the king mackerel groups in needed.

c. Improved catch statistics for all species in Mexican waters, with special emphasis on king mackerel. This also includes length frequency and life history information.

d. Magnitude of bycatch of coastal migratory pelagics in fisheries for coastal herrings (e.g., menhaden purse-seine fishery and coastal herring purse-seine and beach-seine fisheries).

6. General

There are many areas of research that need to be addressed for improved understanding and management of fishery resources. These include methods for data collection, management, and anaylsis; and for better conservation managment. Examples of high-priority research topics includes:

a. Development and refinement of social and economic models of fisheries. Models should focus on effects of management alternatives such as quotas, moratoria, fishery reserves, bag limits, size limits, gear restrictions, and limited area and seasonal closures.

b. Assessment of the changes in recreational and commercial values that have resulted from past management actions for red drum, mackerels, and reef fish.

c. Development and evaluation of controlled-access approaches (e.g., limited entry) for species under Federal management. Of special interest are studies that would address fisheries where both state and Federal jurisdictions are involved, such as the shrimp fishery. Proposed studies should consider existing management strategies and how these strategies might be benefitted or adversely impacted by controlling access. Additionally, they should address how a controlled access program should be introduced into the affected fisheries.

d. Development of improved methods and procedures for technology transfer and education of constituency groups concerning fishery management and conservation programs. Of special importance are programs concerned with controlled access and introductions of conservation gear and fishing practice modifications.

B. MARFIN financial assistance started in FY 1986. For FYs 1986 through 1991, financial assistance awards totaled $10.61 million.

C. Priority in program emphasis will be placed upon funding projects that have the greatest probability of recovering, maintaining, improving, or developing fisheries; improving understanding of factors affecting recruitment success; and/or generating increased values and recreational opportunities from fisheries. Projects will be evaluated as to the likelihood of achieving these benefits through both short-term and long-term research projects, with consideration of the magnitude of the eventual economic benefit that may be realized. Both short-term projects that may yield more immediate benefits and projects yielding longer-term benefits will receive equal consideration.

D. Further information on current Federal programs that address the above-listed priorities may be obtained from the NMFS Southeast Regional Office (see ADDRESSES).

III. How to Apply

A. Eligible Applicants

1. Applications for grants or cooperative agreements for MARFIN projects may be made, in accordance with the procedures set forth in this notice, by:

a. Any individual who is a citizen or national of the United States;

b. Any corporation, partnership, or other entity, non-profit or otherwise, if such entity is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916, as amended (46 app. U.S.C. 802).[2]

[2] To qualify as a citizen of the United States within the meaning of this statute, citizens or nationals of the United States or citizens of the Northern Mariana Islands (NMI) must own not less than 75 percent of the interest in the entity or, in the case of a non-profit entity, exercise control of the entity that is determined by the Secretary to be equivalent to such ownership; and in the case of a corporation, the president or other chief executive officer and the chairman of the board of directors must be citizens of the United States. No more of its board of directors than a minority of the number necessary to constitute a quorum may be non-citizens; and the corporation itself must be organized under the laws of the United States, or of a State, including the District of Columbia, Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the NMI or any other Commonwealth, territory or possession of the United States. Seventy-five percent of the interest in a corporation shall not be deemed to be owned by citizens of the NMI, if: (1) The title to 75 percent of its stock is not vested in

Continued

2. NOAA reserves the right to withhhold the awarding of a grant or cooperative agreement to any individual or organization delinquent on a debt to the Federal Government until payment is made or satisfactory arrangements are made with the agency to whom the debt is owed. Any first-time applicant for Federal grant funds is subject to a preaward accounting survey prior to execution of the award. Women and minority individuals and groups are encouraged to submit applications. NOAA employees, including full-time, part-time, and intermittent personnel (or their immediate families), and NOAA offices or centers are not eligible to submit an application under this solicitation, or aid in the preparation of an application, except to provide information about the MARFIN program and the priorities and procedures included in this solicitation. However, NOAA employees are permitted to provide information about ongoing and planned NOAA programs and activities that may have implication for an application. Potential applicants are encouraged to contact NOAA organizations engaged in fisheries research in the Gulf of Mexico and off the U.S. South Atlantic, or Dr. Donald R. Ekberg at the NMFS Southeast Regional Office (see ADDRESSES) for information on NOAA programs. Documents available from this office that may be useful to the applicant include:

a. A Cooperative Reef Fish Research Program for the Gulf of Mexico.

b. A Cooperative Bycatch Research Plan for the Southeast Region.

c. Strategic Plan of the National Marine Fisheries Service.

d. National Status of Stocks Report.

e. Various fishery management plans and plan amendments produced by the Councils and the Commissions.

B. Amount and Duration of Funds

Under this solicitation for FY 1992, an estimated $1.8 million will be available to fund fishery research and development projects ($1.40 million for new projects and $404,000 for continuing projects). Grants or cooperative agreements may be awarded for a period of up to 3 years. Once awarded, multi-year projects will not compete for funding in subsequent years. Funding for multi-year projects beyond the first year is contingent upon the availability of program funds in subsequent fiscal years, and the extent to which project objectives and reporting requirements are met during the prior year. Publication of this notice does not obligate NMFS to award any specific grant or to obligate NMFS to award any specific grant or to obligate all or any part of the available funds. Awards generally will be made no later than 90 days after the funding selection is determined and negotiations are completed. Under no circumstances should an applicant proceed with the proposed project until such time that he/she has received a signed award from the Grants Officer. Notwithstanding any verbal assurance that the applicant may have received, there is no obligation on the part of the Department of Commerce to cover any costs. An applicant that incurs costs prior to an award being made proceeds solely at its own risk.

C. Cost-Sharing Requirements

Applications must reflect the total budget necessary to accomplish the project, including contributions and/or donations. Cost-sharing is not required for the MARFIN program. However, cost-sharing is encouraged, and in case of a tie in considering proposals for funding, cost-sharing may affect the final decision. The appropriateness of all cost-sharing will be determined on the basis of guidance provided in OMB circulars. Appropriate documentation must exist to support in-kind services or property used to fulfill cost-sharing requirements.

D. Format

1. Applications for project funding must be complete. They must identify the principal participants and include copies of any agreements describing the specific tasks to be performed by participants. Project applications should give a clear presentation of the proposed work, the methods for carrying out the project, its relevance to managing and enhancing the use of Gulf of Mexico and/or South Atlantic fishery resources, and cost estimates as they relate to specific aspects of the project. Budgets must include a detailed breakdown by category of expenditure with appropriate justification for both the Federal and non-Federal shares. Applicants should not assume prior knowledge on the part of NMFS as to the relative merits of the project described in the application.

2. Applications must be submitted in the following format:

a. *Cover Sheet:* An applicant must use OMB Standard Form 424 (revised 4/88) as the cover sheet for each project. Applicants may obtain copies of the form from the NMFS Southeast Regional Office, or Department of Commerce's Grant Management Division (see **ADDRESSES**).

b. *Project Summary:* Each project must contain a summary of not more than one page that provides the following information:

(1) Project title.

(2) Project status (new or continuing). If continuing, show previous financial assistance award number and beginning/ending date.

(3) Project duration (beginning and ending dates).

(4) Name, address, and telephone number of applicant.

(5) Principal Investigator(s).

(6) Project objectives.

(7) Summary of work to be performed. For continuing projects, the applicant must briefly describe progress to date, in addition to any changes to the statement of work previously submitted.

(8) Total Federal funds requested (for multi-year projects, identify each year's requested funding).

(9) Cost-sharing to be provided from non-Federal sources (for multi-year projects, identify each year's cost-sharing). Specify whether contributions are project related cash or in-kind.

(10) Total project cost.

c. *Project Description:* Each project must be completely and accurately described. Each project description may be up to 15 pages in length. NMFS will make all portions of the project description available to the public and members of the fishing industry for review and comment; therefore, NMFS cannot guarantee the confidentiality of any information submitted as part of any project, nor will NMFS accept for consideration any project requesting confidentiality of any part of the project.

Each project must be described as follows: (1) *Identification of Problem(s):* Describe how existing conditions prevent the full use of Gulf of Mexico and/or South Atlantic fishery resources. In this description, identify:

(a) The fisheries involved;

(b) The specific problem(s) that the fishing industry, management agencies or environmental organizations have encountered;

(c) The sectors of the fisheries that are affected; and

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such citizens or nationals of the United States or citizens of the NMI free from any trust or fiduciary obligation in favor of any perrson not a citizen or national of the United States or citizens of the NMI; (2) 75 percent of the voting power in such corporation is not vested in citizens or nationals of the United States or citizens of the NMI; (3) through any contract or understanding it is arranged that more than 25 percent of the voting power in such corporation may be exercised, directly or indirectly in behalf of any person who is not a citizen or national of the United States or a citizen of the NMI; or (4) by any means whatsoever, control of any interest in the corporation is conferred upon or permitted to be exercised by any person who is not a citizen or national of the United States.

(d) How the problem(s) prevent the fishing industry or management agencies from using or managing the fishery resources.

(2) *Project Goals and Objectives:* State what the proposed project will accomplish and describe how this will eliminate or reduce the problem(s) described above. For multi-year projects, describe the ultimate objective of the project and how the individual task contribute to reaching the objective. Describe the timeframe in which task's would be conducted.

(3) *Need for Government Financial Assistance:* Explain why other fund sources cannot fund all the proposed work. List all other sources of funding that are or have been sought for the project.

(4) *Participation by Persons or Groups Other Than the Applicant:* Describe the level of participation required in the project(s) by NOAA or other government and non-government entities. Specific NOAA employees should not be named in the proposal, even though the applicant may wish to acknowledge government expertise in an allied area.

(5) *Federal, State, and Local Government Activities:* List any programs (Federal, state, or local government or activities, including State Coastal Zone Management Programs, Sea Grant, Southeast Area Monitoring and Assessment Program, Public Law 99–659 and Cooperative Statistics) this project would affect and describe the relationship between the project and those plans or activities.

(6) *Project Outline:* Describe the work to be performed during the project, starting with the first month's work and continuing to the last month. Identify specific milestones that can be used to track project progress. For multi-year projects, major project tasks and milestones for future years must also be identified. If the work described in this section does not contain sufficient detail to allow for proper technical evaluation, NMFS will not consider the application for funding and will return it to the applicant.

(7) *Project Management:* Describe how the project will be organized and managed. Include resumes of principal investigators. List all persons directly employed by the applicant who will be involved in the project, their qualifications, and their level of involvement in the project.

(8) *Monitoring of Project Performance:* Identify who will participate in monitoring the project.

(9) *Project Impacts:* Describe the impact of the project in terms of anticipated increased production, sales, exports, product quality and safety, improved management, social values or any other that will be produced by this project. Describe how these products or services will be made available to the fishery and management communities.

(10) *Evaluation of Project:* The applicant is required to provide an evaluation of project accomplishments in the final report. The application must describe the methodology or procedures to be followed to determine technical or economic feasibility, to evaluate user acceptability, or to quantify the results of the project in promoting increased production, sales, exports, product quality and safety, social values, management effectiveness or other measurable factors.

(11) *Total Project Costs:* Total project costs is the amount of funds required to accomplish the proposed statement of work (SOW), and includes contributions and donations. All costs must be shown in a detailed budget. Cost-sharing must not come from another Federal source. Costs must be allocated to the Federal share and non-Federal share provided by the applicant or other sources. Non-Federal costs are to be divided into cash and in-kind contributions. A standard budget form (ED–357 NG; Rev. 3–80) is available from the offices listed (see **ADDRESSES**). A separate budget must be submitted for each project. An applicant submitting a multi-year project must submit two budgets—one covering total project costs (including individual costs per year) and one covering the initial funding request for the project. The initial funding request must cover funds required during the first 12-month period. NMFS will not consider fees or profits as allowable costs for grantees. To support its budget, the applicant must describe briefly the basis for estimating the value of the non-Federal funds derived from in-kind contributions. Costs for the following categories must be detailed in the budget as follows:

(i) *Personnel.* (a) *Salaries:* Identify salaries by position and percentage of time and annual/hourly salary of each individual dedicated to the project.

(b) *Fringe Benefits:* Indicate benefits associated with personnel working on the project. This entry should be the proportionate cost of fringe benefits paid for the amount of time spent in the project. For example, if an employee spends 20 percent of his/her time on the project, 20 percent of his/her fringe benefits should be charged to the project.

(ii) *Consultants and Contract Services:* Identify all consultant and/or contractual service costs by specific task in relation to the project. If a commitment has been made prior to application to contract with a particular organization, explain how the organization was selected. Describe the type of contract, budget, deliveries, expected, and timeframe. A detailed budget must be submitted (with supporting documentation) for the total amount of funding requested for a subcontractor/consultant. All contracts must meet the standards established in OMB circulars.

(iii) *Travel and Transportation:* Identify number of trips to be taken, purpose, and number of people to travel. Itemize estimated costs to include approximate cost of transportation, per diem, and miscellaneous expenses.

(iv) *Equipment, Space or Rental Costs:* Identify equipment purchases or rental costs with the intended use. Equipment purchases greater than $500 are discouraged, since experienced investigators are expected to have sufficient capital equipment on hand. Use of lease to purchase (LTOP) or similar leases are prohibited. Identify space or rental costs with specific uses.

(v) *Other Costs.* (a) *Supplies:* Identify specific supplies necessary for the accomplishment of the project. Consumable office supplies must be included under Indirect Costs unless purchased in a large quantity to be used specifically for the project.

(b) *Postage and Shipping:* Include postage for correspondence and other project related material, as well as air freight, truck or rail shipping of bulk materials.

(c) *Printing Costs:* Include costs associated with producing materials in connection with the project.

(d) *Long Distance Telephone and Telegraph:* Identify estimated monthly bills.

(e) *Utilities:* These costs should be included under Indirect Costs unless purchased in a large quantity to be specifically identified to the project. Identify costs of utilities and percentage of use in conjunction with performance of project.

(f) *Indirect Costs:* This entry should be based on the applicants established indirect cost agreement rate with the Federal Government. A copy of the current, approved, negotiated Indirect Cost Agreement must be included. It is the policy of the Department of Commerce that indirect costs shall not exceed direct costs.

(g) *Additional Costs:* Indicate any additional costs associated with the project that are allowable under OMB Circulars A–21, A–87, and A–122.

(d) *Supporting Documentation:* This section should include any required

documents and any additional information necessary or useful to the description of the project. The amount of information given in this section will depend on the type of project proposed, but should be no more than 20 pages. The applicant should present any information that would emphasize the value of the project in terms of the significance of the problems addressed. Without such information, the merits of the project may not be fully understood, or the value of the project may be underestimated. The absence of adequate supporting documentation may cause reviewers to question assertions made in describing the project and may result in a lower ranking of the project. Information presented in this section should be clearly referenced in the project description.

E. Application Submission and Deadline

1. *Deadline:* (see **DATES**)

2. *Submission of Applications to NMFS:* Applications are not to be bound in any manner and should be one-sided. All incomplete applications will be returned to the applicant. Applicants must submit one signed original and two (2) copies of the complete application to the NMFS Southeast Regional Office (see **ADDRESSES**). Questions of an administrative nature should be referred to the Grants Management Division, 0A321 (see **ADDRESSES**).

IV. Review Process and Criteria

A. Evaluation and Ranking of Proposed Projects

1. Unless otherwise specified by statute, in reviewing applications for grants and cooperative agreements that include consultants and contracts, NOAA will make a determination regarding the following:

a. Is the involvement of the applicant necessary to the conduct of the project and the accomplishment of its goals and objectives?

b. Is the proposed allocation of the applicant's time reasonable and commensurate with the applicant's involvement in the project?

c. Are the proposed costs for the applicant's involvement in the project reasonable and commensurate with the benefits to be derived from applicant's participation?

2. For applications meeting the requirements of this solicitation, NMFS will conduct a technical evaluation of each project prior to any other review. This review normally will involve experts from non-NOAA as well as NOAA organizations. All comments submitted to NMFS will be taken into consideration in the technical evaluation of projects. NMFS will provide point scores on proposals based on the following evaluation criteria:

a. Adequacy of research/development/demonstration for managing or enhancing Southeast marine fishery resources, addressing especially the possibilities of securing productive results (30 points).

b. Soundness of design/technical approach for enhancing or managing the use of Southeast marine fishery resources (25 points).

c. Organization and management of the project, including qualifications and previous related experience of the applicant's management team and other project personnel involved (20 points).

d. Effectiveness of proposed methods for monitoring and evaluating the project (15 points).

e. Justification and allocation of the budget in terms of the work to be performed (10 points).

3. Applications will be ranked by NMFS into three groups: (a) Highly recommended, (b) recommended, and (c) not recommended. These rankings will be presented to a panel of fishery experts convened by NMFS. The panel members will also individually consider the significance of the problem addressed in the project, along with the technical evaluation and need for funding. The panel members' individual recommendations will aid NMFS in determining the appropriate level of funding for each project.

B. Consultation With Others

NMFS will make project descriptions available for review as follows:

1. *Public Review and Comment:* Applications may be inspected at the NMFS Southeast Regional Office (see **ADDRESSES** and **DATES**).

2. *Consultation with Members of the Fishing Industry, Management Agencies, Environmental Organizations, and Academic Institutions.* NMFS shall, at its discretion, request comments from members of the fishing and associated industries, groups, organizations and institutions who have knowledge in the subject matter of a project or who would be affected by a project.

3. *Consultation with Government Agencies:* Applications will be reviewed in consultation with the NMFS Southeast Science and Research Director and appropriate laboratory personnel, NOAA Grants Officer and, as appropriate, Department of Commerce bureaus and other Federal agencies, for elimination of duplicate funding. The Councils may be asked to review projects and advise of any real or potential conflicts with Council activities.

C. Funding Decision

After projects have been evaluated, the Southeast Regional Director, in consultation with the NOAA Assistant Administrator for Fisheries, will ascertain which projects do not substantially duplicate other projects that are currently funded by NOAA or are approved for funding by other Federal offices, determine the projects to be funded, and determine the amount of funds available for the program. The exact amount of funds awarded to each project will be determined in preaward negotiations between the applicant, the Grants Office, and the NMFS program staff. The Department of Commerce will review all projects recommended for funding before an award is executed by the Grant Officer. The funding instrument will be determined by the Grants Officer. Projects must not be initiated by a recipient until a signed award is received from the Grants Officer. For multi-year projects, funds will be provided when specified tasks are satisfactorily completed and after NMFS has received MARFIN funds for subsequent fiscal years.

V. Administrative Requirements

A. Applicant Responsibility

An applicant must: 1. Meet all application requirements and provide all information necessary for the evaluation of the project.

2. Be available, upon request, in person or by designated representative, to respond to questions during the review and evaluation of the project(s).

3. If a project is awarded, manage the day-to-day operations of the project, be responsible for the performance of all activities for which funds are awarded, and be responsible for the satisfactory completion of all administrative and managerial conditions required by the award. This includes adherence to procurement standards set forth in the award and referenced OMB Circulars and Department of Commerce regulations.

4. If a project is awarded, keep records sufficient to document any costs incurred under the award, and allow access to records for audit and examination by the Secretary, the Comptroller of the United States, or their authorized representatives.

5. Fishery data collected during the course of a project that could be pertinent to fishery management needs must be available to NMFS on request,

subject to pertinent confidentiality requirements.

6. If a project is awarded, quarterly project status reports on the use of funds and progress of the project must be submitted to NMFS within 30 days after the end of each calendar quarter. The content of these reports will include, at a minimum:

a. A summary of work conducted, which includes a description of specific accomplishments and milestones achieved;

b. The degree to which goals or objectives were achieved as originally projected;

c., Where necessary, the reasons why goals or objectives are not being met;

d. Any proposed changes in plans or redirection of resources or activities and the reason therefore; and

e. Expenses incurred during the reporting period.

7. If a project is funded, submit an original and two copies of a final report to NMFS within 90 days after completion of the project. The report must describe the accomplishments of the project and include an evaluation of the work performed and the results and benefits of the work in sufficient detail to enable NMFS to assess the success of the completed project. Results must be described in relation to the project objectives of resolving specific impediments to managing or using fisheries, and be quantified to the extent possible. Potential uses of project results by private industry or fishery management agencies should be specified. Any conditions or requirements necessary to make productive use of projects results should be identified.

8. Present completed project results at the annual MARFIN conference and submit an abstract 15 days prior to the conference (September 1992). Travel funds for the Principal Investigator to attend this meeting will be provided by NMFS.

9. Each recipient of MARFIN funding must comply with applicable OMB circulars, Department of Commerce policies and regulations, and NOAA policies and guidelines. The Drug-Free Workplace Act of 1988 requires that all grantees receiving Federal financial assistance must maintain a drug-free workplace. Each award contains DOC standard terms and conditions and NOAA special award conditions that must be met by the recipient.

10. For each project funded, three copies of all publications or reports printed with grant funds must be submitted to the Program Officer. Any publication printed with grant funds must identify the NOAA MARFIN program as the funding source along with the grant award number. Grant recipients are also requested to submit to the Program Officer three copies of all publications resulting wholly or in part from MARFIN funded projects, to indicate in such publications the role of the MARFIN program in accomplishing the research and, where another Federally funded program provides data sources used in the research, to so indicate.

B. National Marine Fisheries Service Responsibility

The NMFS Southeast Region will: 1. Provide programmatic information necessary for the proper submission of applications.

2. Provide advice to inform applicants of NMFS fishery management and development policies and goals.

3. Monitor all projects after award to ascertain their effectiveness in achieving project objectives and in producing measurable results. Actual accomplishments of a project will be compared with stated objectives.

4. Refer questions regarding grant management policy and administration from applicants/recipients to the Grants Officer.

C. NOAA Grants Management Officer Responsibility

The NOAA Grants Management Officer is responsible for the execution of NOAA Federal Assistance Awards. The Grants Officer is responsible for the business management aspects of awards, and serves as the counterpart to the business officer of the recipient. The Grants Officer works closely with the Program Officer, who is responsible for the scientific, technical, and programmatic aspects of the project. The official grant file will be maintained by the Grant Officer.

IV. Legal Requirements

The applicant will be required to satisfy the requirements of applicable local, state, and Federal laws.

Recipients are subject to the provisions of 31 U.S.C. 1352 entitled "Limitations on use of appropriated funds on certain Federal contracting and financial transaction," more commonly known as the "lobbying disclosure" rule.

Section 319 of Public Law 101–121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Certifications regarding Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements and Lobbying (Form CD–511) are required to be submitted with the application.

Potential recipients may be required to submit an "Identification-Application for Funding Assistance" form (Form CD–346), which is used to ascertain background information on key individuals associated with the potential recipient. The CD–346 form requests information to reveal if any key individuals in the organization have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters pertinent to management honesty or financial integrity. Potential recipients may also be subject to reviews of Dun and Bradstreet data or other similar credit checks.

A false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

If an application for an award is selected for funding, the Department of Commerce has no obligation to provide any additional prospective funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

Grants awarded pursuant to pertinent statutes shall be in accordance with the Fisheries Research Plan (comprehensive program of fisheries research) in effect on the date of the award.

Classification

NMFS reviewed this solicitation in accordance with Executive Order (E.O.) 12291 and the Department of Commerce guidelines implementing that Order. This solicitation is not "major" because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This notice does not contain policies with sufficient federalism implications to warrant preparation of a federalism assessment under Executive Order 12612. Prior notice and an opportunity for public comments are not

required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

Information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB Clearance No. 0648–0175) under the provisions of the Paperwork Reduction Act. The CD–346 form also referenced in the Notice is approved by OMB Clearance Number 0605–0001. Public reporting burden for Agency-specific collection-of-information elements, exclusive of requirements specified under applicable OMB circulars, is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Regional Director and to OMB (see ADDRESSES).

This program is subject to the provisions of Executive Order 12372.

Authority: 16 U.S.C. 753a.

Dated: May 18, 1992.

Samuel W. McKeen,

Program Management Officer.

[FR Doc. 92–12023 Filed 5–21–92; 8:45 am]

BILLING CODE 3510–22–M

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's recently formed committee on utilization of discarded catch will hold a public meeting on June 4, 1992, at the Alaska Fisheries Science Center, 7600 Sand Point Way NE., room 2143, Building Four, Seattle, Washington. The meeting will begin at 9 a.m.

The first meeting of this committee will serve to review information on, and determine the current magnitude of, discards in the Gulf of Alaska and Bering Sea/Aleutian Islands groundfish fisheries. The committee will discuss possible goals for management of discarded catch.

For more information contact Brent Paine, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271–2809.

Dated: May 18, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–11995 Filed 5–21–92; 8:45 am]

BILLING CODE 3510–22–M

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection of Information; Survey of Households With Inoperable Smoke Detectors

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a proposed collection of information in the form of a survey of households to determine the proportion of households without operable smoke detectors and factors which contribute to the failure of smoke detectors.

Working smoke detectors are an effective means for preventing fire casualties. The risk of dying in a fire is almost twice as high in a home without a smoke detector as in one with a smoke detector. About 85 percent of the homes in the United States are estimated to be equipped with smoke detectors. From 1980 to 1989, deaths in residential structural fires in the United States declined by 19 percent. However, in a recent study of residential fires, more than one-third of the smoke detectors in place in the affected structures failed to operate.

The Commission has joined with the Congressional Fire Services Institute, the U.S. Fire Administration, the National Fire Protection Association, and other government agencies and business and consumer organizations to reduce risks of deaths and injuries from residential fires. This joint effort includes educating consumers, modifying fire codes and standards, and stimulating development of new technologies. In this joint effort, the participating agencies and organizations are seeking information to identify the proportion of inoperable smoke detectors in residences; ways in which residential smoke detectors fail; factors that contribute to failure of residential smoke detectors; and the types of households or housing that are most likely to have inoperable smoke detectors.

The Commission proposes to survey 1,080 households with smoke detectors (including a pilot survey of 80 households) to obtain information about the extent to which consumers install smoke detectors incorrectly; disable smoke detectors; and fail to maintain or test smoke detectors. Inoperable detectors will be collected and tested to help identify technical causes of failures. The Commission also proposes to obtain information about the extent to which households in low income or rural areas have working smoke detectors, and patterns of smoke detector failures which indicate a need for the development of new technologies.

The Commission will share the information obtained from this survey with the other participants in the joint effort to help determine the types of future activities that will most effectively reduce fire casualties.

Additional Details About the Request for Approval of a Collection of Information

Agency address: Consumer Product Safety Commission, Washington, DC 20207.

Title of information collection: Smoke Detector Operability Survey.

Type of request: Approval of a new plan.

Frequency of collection: One time.

General description of respondents: Persons who live in a residence equipped with one or more smoke detectors.

Total number of respondents; 1,080.

Hours per response: 0.667.

Total hours for all respondents: 720.

Comments: Comments about this request for approval of a collection of information should be addressed to Elizabeth Harker, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone (202) 395–7340. Copies of the request for approval of a collection of information are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: May 15, 1992.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 92–12084 Filed 5–21–92; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Policy Board Task Force on The Future of American Nuclear Forces

ACTION: Notice of Task Force Meeting.

SUMMARY: The Defense Policy Board Task Force on The Future of American Nuclear Forces will meet in closed session on 9–10 June 1992 from 0800 to 1700 at the RDA Logicon Facility located at Sequoia Plaza, 2100 Washington Boulevard, Arlington, VA. The mission of the Task Force is to provide the Secretary of Defense, Deputy Secretary of Defense and the Under Secretary of Defense for Policy with independent, informed advice and opinion concerning matters relating to U.S. nuclear force policy. At the meeting the Task Force will hold classified discussions on national security matters.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. app. II, (1982)), it has been determined that this Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: May 18, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–12028 Filed 5–21–92; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35)

Title, Applicable Form, and Applicable OMB Control Number: Air Force Academy Precandidate Questionnaire; USAFA Form 149; OMB No. 0701–0087.

Type of Request: Revision.

Average Burden Hours/Minutes Per Response: 24 Minutes.

Responses per Respondent: 1.

Number of Respondents: 11,000.

Annual Burden Hours: 4,400.

Annual Responses: 11,000.

Needs and Uses: This form is used to collect information from prospective candidates to conduct a preliminary assessment of a candidate's prospects, qualifications, and eligibility status for application and selection for entry into the USAF Academy.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DOD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: May 18, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–12029 Filed 5–21–92; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submited to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Unescorted Entry Authorization Certificate; AF Form 2586; OMB No. 0701–0042.

Average Burden Hours/Minutes Per Response: 3 minutes.

Responses Per respondent: 1.

Number of Respondents: 22,912.

Annual Responses: 22,912.

Annual Burden Hours: 1,146.

Needs and Uses: This form is used to identify and certify individuals whose duties require entry on a frequent and recurring basis to controlled or restricted areas. The affected public includes retirees and their dependents, civilian contractors, businesses, and state and local government representatives.

Affected Public: Individuals or households, State or local governments, Federal Agencies or employees, and small businessses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: May 19, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–12030 Filed 5–21–92; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 92–02–NG]

Bray Terminals, Inc.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Bray Terminals, Inc. blanket authorization to import a total of 43.8 Bcf of Canadian natural gas over a two-year term beginning on the date of the first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

Issued in Washington, DC, May 18, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–12080 Filed 5–21–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92-11-NG]

Highland Energy Co.; Order Granting Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of order granting blanket authorization to export natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Highland Energy Company blanket authorization to export up to 54.8 Bcf of natural gas to Mexico over a two-year period beginning on the date of delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, May 18, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-12081 Filed 5-21-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-42-NG]

Kimball Energy Co.; Application To Export Natural Gas to Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on March 24, 1992, as revised on April 30, 1992, of an application filed by Kimball Energy Corporation (Kimball) requesting blanket authorization to export up to 75 Bcf of natural gas to Mexico over a two-year period commencing with the date of first delivery. Kimball intends to use existing U.S. pipeline facilities which interconnect with Mexican pipeline facilities at various points on the U.S./Mexican border. Kimball states that it will submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written notices are to be filed at the address listed below no later than 4:30 p.m., eastern time, June 22, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Charles E. Blackburn
Office of Fuels Programs
Fossil Energy
U.S. Department of Energy
Forrestal Building, Room 3F-094
1000 Independence Avenue, S.W.
Washington, D.C. 20585
(202) 586-7751

Lot Cooke
Office of Assistant General Counsel for Fossil Energy
U.S. Department of Energy
Forrestal Building, Room 6E-042
1000 Independence Avenue, S.W.
Washington, D.C. 20585
(202) 586-0503

SUPPLEMENTARY INFORMATION:

Kimball, a Texas corporation with its principal place of business in Arlington, Texas, is currently purchasing natural gas from independent producers in Louisiana, Texas, New Mexico, Colorado, Utah, and Wyoming for sale in first sales or direct sales to customers served through various pipeline facilities in the western United States. Additionally, Kimball holds a blanket import authorization to import volumes of gas from Canada under DOE/FE Opinion and Order No. 597 (March 31, 1992). Kimball is not affiliated with any other company.

Kimball requests authorization to export gas for its own account but may act as an agent on behalf of domestic producers and pipelines or as an agent on behalf of Mexican purchasers. The requested authority would be used for short-term or spot market contracts with market responsive terms and conditions.

The export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. In deciding whether the proposed export is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 431 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedure

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate

why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Kimball's application is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on May 18, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc 92–12082 Filed 5–21–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 90–39–NG, et al.]

Public Service Department, the City of Burbank, California et al.; Notice of Order Granting Blanket Authorizations To Import Natural Gas From Canada and Record of Decision

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of order granting blanket authorizations to import natural gas from Canada and Record of decision.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued a consolidated order on May 19, 1992, granting eight applications to import natural gas from Canada into the United States for two years beginning on the date of the first deliveries. The applications involved were filed by the Public Service Department of the City of Burbank, California (FE Docket No. 90–39–NG); the Public Service Department of the City of Glendale, California (FE Docket No. 90–40–NG); the Department of Water and Power of the City of Pasadena, California (FE Docket No. 90–42–NG); Southern California Edison (FE Docket No. 90–42–NG); Pancontinental Oil Ltd. (FE Docket No. 90–42–NG); Pacific Gas and Electric Company (FE Docket No. 90–42–NG); San Diego Gas & Electric Company (FE Docket No. 90–42–NG); and BP Resources Canada Limited (FE Docket No. 90–42–NG). This gas would be imported at the international border near Kingsgate, British Columbia (Eastport, Idaho) where the pipeline facilities of Alberta Natural Gas Company, Ltd. interconnect with Pacific Gas Transmission Company. All of the applications are related to the proposed Pacific Gas Transmission Company/Pacific Gas & Electric (PGT/PG&E) Pipeline Expansion Project. Together, PGT and PG&E would expand the capacity of their existing natural gas pipeline systems to jointly transport up to an additional 903 million cubic feet (MMcf) per day of gas from Canada to the Pacific Northwest and California. The eight importers are potential shippers on the PGT/PG&E expansion facilities.

Record of Decision

In conjunction with these orders, FE is hereby issuing a Record of Decision (ROD) pursuant to the regulations of the Council on Environmental Quality (40 CFR part 1505) and the DOE's guidelines for compliance with the National Environmental Policy Act (NEPA) of 1969. The PGT/PG&E project itself is fnot regulated by DOE. However, because a portion of the new pipeline capacity would be used by each of the foregoing importers, the ROD discusses the potential environmental impact of constructing and operating the proposed PGT/PG&E facilities for the transportation and delivery of this Canadian gas.

Environmental Documents

This ROD is based on a review of the Federal Energy Regulatory Commission Environmental Impact Statement–0061 (FERC/EIS–0061) which DOE, as a cooperating agency, adopted and renamed as DOE/EIS–0164 (hereafter referred to as the Final EIS).[1] This document is entitled "PGT/PG&E and Altamont Pipeline Projects Final Environmental Impact Statement."[2] Additionally, the FERC/EIS–0061 incorporated by reference relevant portions of the Final Environmental Impact Report (hereafter referred to as the Final EIR) prepared by the California Public Utilities Commission (CPUC) for the PG&E expansion facilities. This is because PG&E's facilities are regulated by the CPUC, whereas regulation of PGT's facilities fall under FERC's jurisdiction. Therefore, FERC incorporated the CPUC Final EIR into FERC/EIS–0061 to eliminate duplication of effort.

A copy of the consolidated order is available for inspection and copying in the Natural Gas Division Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, (202) 586–9478. The Docket Room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION ON THE IMPORT AUTHORIZATIONS CONTACT: P.J. Fleming, Office of Fuels Programs (FE–50), Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–070, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4819

FOR FURTHER INFORMATION ON THE NEPA PROCESS CONTACT: Carol M. Borgstrom, Director, Office of NEPA Oversight (EH–25), U.S. Department of Energy, Forrestal Building, room 3E–080, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600 or (1–800) 472–2756.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to the Council on Environmental Quality (CEQ) regulations implementing the procedural provisions of NEPA [3] and the DOE's guidelines [4] for compliance with NEPA, FE is issuing this ROD on the following applications for two-year blanket import authorization:

Importer/FE docket no.	Maximum volume requested (billion cubic feet)
(1) Public Service Department, the City of Burbank, California (90–39–NG)	3.8
(2) Public Service Department, the City of Glendale, California (90–40–NG)	3.8
(3) Department of Water and Power, the City of Pasadena, California (90–42–NG)	3.8
(4) Southern California Edison (90–43–NG)	146
(5) Pancontinental Oil Ltd. (90–45–NG)	8
(6) Pacific Gas and Electric Company (90–46–NG)	73
(7) San Diego Gas and Electric Company (90–47–NG)	73
(8) BP Resources Canada Limited (90–49–NG)	36.5

[1] Other agencies that cooperated with FERC on the EIS were the U.S. Department of Interior's Bureau of Land Management, the Department of Agriculture's Forest Service, and the U.S. Army Corps of Engineers (Omaha District).

[2] This ROD is concerned only with the PGT/PG&E expansion facilities. None of the applications for import authority issued herein will be using the Altamont facilities.

[3] 42 U.S.C. 4321, *et seq.*

[4] 57 F.R. 15122, April 24, 1992

II. Decision

On May 19, 1992, FE issued a consolidated order, under section 3 of the Natural Gas Act (NGA),[5] granting all of the applications listed above, which is based, in part, on the Final EIS. FE relied on this document and conducted an independent review to assess the environmental effects of granting the imports.

To transport and deliver these imports would require construction of the pipeline facilities comprising the PGT/PG&E project. Because the PG&E portion of the PGT/PG&E project is an intrastate pipeline, CPUC, as the jurisdictional agency, prepared the Final EIR on the pipeline facilities proposed by PG&E. The Final EIR was issued on November 19, 1990, and CPUC initially authorized the construction of PG&E's facilities on December 27, 1990.[6] The Final EIS incorporates the CPUC Final EIR.

III. PGT/PG&E Project Description

A. Description of Existing Facilities

PGT owns and operates a natural gas pipeline system which extends approximately 612 miles from the U.S.-Canada border near Kingsgate, British Columbia, through the states of Idaho, Washington, and Oregon, to the California border near Malin, Oregon. Twelve compressor stations are on the PGT system. PGT's 36-inch-diameter pipeline connects with the facilities of Alberta Natural Gas Company, Ltd. (ANG) in the north and with the facilities of PG&E in the south. The firm-delivery capacity of the current PGT system is 1,066 MMcf per day at the Oregon-California border. PGT has one sales customer, PG&E, and two firm pipeline transportation customers. In addition, PGT provides interruptible gas transportation for a number of shippers.

PG&E's 36- and 26-inch diameter pipeline system is approximately 300 miles long and located in California. Four compressor stations are on the PG&E system.

B. Description of Proposed Facilities

When completed, PGT's expanded facilities would provide additional transportation capacity to deliver up to an additional 148 MMcf per day of Canadian gas to various natural gas utilities in Idaho, Washington, and Oregon. The PGT/PG&E expansion facilities would also provide up to 755 MMcf per day of additional firm transportation service for utilities and the oil and gas industry in California.

To provide the additional capacity to transport these volumes, PGT/PG&E propose to construct a total of 845 miles of pipeline parallel and adjacent to the existing PGT/PG&E pipeline (a process referred to as "looping"). The new pipeline loops would be laid within existing PGT/PG&E rights-of-way for approximately 741 miles (88 percent) of the proposed route. The PGT/PG&E project would require approximately 8,400 acres of existing permanent right-of-way and 700 acres of new permanent right-of-way. During construction, the project would directly affect up to 12,000 acres. This include permanent right-of-way and temporary construction easements. Construction began in early 1992 and service is expected to commence in late 1993.

1. PGT's Expansion

The proposed PGT construction includes the installation of a 42-inch diameter buried pipeline on both sides of the international boundary between the United States and Canada. On the U.S. side, this pipeline would connect with PGT's existing Compressor Station No. 3 approximately 2.5 miles from the border. On the Canadian side, it would connect with a new 42-inch diameter pipeline of ANG.

In addition, PGT proposes to complete the looping of all unlooped portions of its existing pipeline by adding 430 miles of 42-inch diameter buried pipeline loop in seven segments through the states of Idaho, Washington, and Oregon and replace/install additional horsepower (hp) at three existing compressor stations. At Compressor Station No. 3 in northern Idaho, PGT would install an additional 30,000-hp gas-fired turbine. At Compressor Stations No. 5 and 7 in western Idaho and central Washington, PGT would replace existing 9,100-hp units with 30,000-hp units. Minor modifications would be required at nine other stations. The modifications would consist of installing additional metering instrumentation; adding electrical and control equipment; and modifying compressor cases, piping, valves, and fittings to accommodate the additional gas flow.

2. PG&E's Expansion

To deliver the increased volumes of gas received from PGT, PG&E proposes to construct 415 miles of buried 42- and 36-inch diameter pipeline loop in five segments between the Oregon-California border and a point near Panoche Station in Fresno County, California. Additionally, PG&E proposes to make minor modifications similar or those required by PGT at three of its existing compressor stations, install additional compressor (one 14,365-hp unit) at its Delevan, California Compressor Station, and either expand its Brentwood Compressor Station near Antioch, California by 86.7 acres to accommodate three new 4,500-hp units or construct an additional station at a new location. The Brentwood Compressor Station now occupies 13.3 acres.

IV. Governmental Responsibilities

The eight importers listed above which would use the PGT/PG&E pipeline facilities require authorization from FE under section 3 of the NGA to import gas from Canada. Section 3 prohibits the import or export of natural gas to or from a foreign country without the prior approval of FE. In addition, a natural gas company or a natural gas pipeline must obtain FERC authorization, in the form of a certificate of public convenience and necessity issued under section 7 of the NGA, before constructing and operating facilities used to transport a resell natural gas in interstate commerce.[7]

On December 8, 1988, PGT filed with FERC an application, as subsequently amended, under section 7 of the NGA to increase its natural gas transportation service and to construct and operate the pipeline facilities to carry out the new service.[8] Also, on October 3, 1989, PGT applied to FERC for a Presidential Permit and for authorization under section 3 of the NGA to site, construct, operate, and maintain the proposed additions or modifications to its facilities operated at the international border.[9] Under section 7 of the NGA, FERC is responsible for determining that interstate natural gas transportation facilities are in the public interest. If FERC determines that there is or will be a need for a proposed service, it will issue a certificate of public convenience and necessity authorizing the construction and operation of a proposed project. On August 1, 1991, FERC issued such a certificate and a Presidential Permit to PGT for the expansion project that imposed numerous environmental conditions.[10]

The PG&E facilities are not regulated by FERC, but are under CPUC's jurisdiction. On April 14, 1989, PG&E

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[5] 15 U.S.C. 717(b).

[6] CPUC stayed this authorization on April 24, 1991. Subsequently, on June 5, 1991, CPUC denied requests for rehearing of environmental issues and recertified the Final EIR. On June 19, 1991, CPUC modified its decision certificate to permit construction to commence in September 1991 (five months earlier).

[7] 15 U.S.C. 717(c).

[8] FERC Docket Nos. CP89-460-000.

[9] FERC Docket Nos. CP89-460-001.

[10] See Pacific Gas Transmission Company, 56 FERC § 61,192.

filed an application with CPUC for authorization to expand its existing pipeline.[11] Under sections 1001, *et seq.* of the California Public Utilities Code, CPUC is responsible for determining whether a public utility's proposed plant facilities or transportation services in California are in the public interest. Because applicants are subject to the California Environmental Quality Act (CEQA), an environmental review of an application must be conducted. CPUC and FERC worked together to collect the data that was used to examine the potential environmental impact of the PGT/PG&E project in California and outside California. To eliminate duplication of information, as encouraged by the CEQ regulations, the FERC Final EIS incorporated the CPUC Final EIR as it relates to the PG&E facilities, and alternatives within California. As noted above, CPUC issued a certificate of public convenience and necessity to PG&E on December 27, 1990.

V. Description of Alternatives

FE has two alternative courses of action in processing applications to import natural gas. It can grant an application (with or without conditions) or deny an application (no-action). If FE granted all eight of the applications, PGT and PG&E would proceed to construct their proposed facilities to expand pipeline system capacity. It is uncertain what actions would be taken by PGT/PG&E if FE denied any of the applications.

The proposed PGT expansion is a transportation-only project. PGT would not be purchasing or selling any of the gas transported. PGT asserts that the expansion project is fully subscribed in that it has long-term contracts with 30 utilities, marketers, and producers to transport between 4 MMcf per day and 202 MMcf per day of Canadian natural gas. These shippers include the eight entities which have filed short-term, blanket import applications with DOE and other potential shippers who have not yet filed applications.[12] If FE denied most or all of the pending applications, the facility requirements of PGT/PG&E might have to be reduced or otherwise adjusted, but the pipeline expansion could still take place.

VI. Basis for Decision

The principal criterion in choosing whether to approve or disapprove natural gas import arrangements is the requirement under section 3 of the NGA that an application must be approved unless, after opportunity for hearing, it is determined that the import is not consistent with the public interest. Decisions are made consistent with DOE's gas import policy guidelines, under which the competitiveness of an arrangement in the markets served is the primary factor in determining whether it is in the public interest.[13] Additionally, the environmental implications of granting or denying an import application must be evaluated pursuant to NEPA.

A. General Conclusions

With respect to the eight import proposals, FE determined that the individual applications should be authorized because each arrangement would be short-term, voluntarily negotiated, market-responsive, and consistent with DOE guidelines concerning the public interest.

B. Environmental Determination

FERC was the lead Federal agency in examining the environmental effects of PGT constructing the pipeline loops, installing metering facilities, and adding horsepower at existing compressor stations. CPUC served as lead agency for the PG&E portion of the PGT/PG&E project. Both FERC's Final EIS and CPUC's Final EIS addressed the need for the pipeline expansion, cultural resources, threatened and endangered species, erosion and sedimentation control, revegetation of disturbed areas, blasting, geologic hazards, groundwater, impact on water supplies and water quality, pipeline construction through wetlands and streams, wildlife and fisheries, land use, forests, impact on residences, recreation, socioeconomic impacts, air and noise quality, visual impacts, pipeline safety, alternatives to the proposed routes and sites for the aboveground facilities, cumulative impact, system alternatives, and other concerns in the project area.

Specific areas of concern in connection with the proposed PGT/PG&E project route include geologically related impacts associated with potential landslides; hydrological impacts associated with increased sediment loading of perennial streams; and impacts to environmentally sensitive areas associated with state and federally listed or proposed threatened or endangered fish, wildlife, and plant species.

1. Project System Alternatives

Ten pipeline system alternatives were considered that could potentially provide most or all of the proposed natural gas services to California. the initial list of alternatives was based on applications submitted to FERC and CPUC, previous studies, and public scoping meetings conducted for the EIS. Five were evaluated in greater detail after a screening process eliminated the other alternatives from further consideration mainly because the projects never filed a complete application for certification with FERC, the certificate application before FERC or CPUC was dismissed, or the proposal was considered inactive because the applicant failed to pursue its application.

The pipeline system alternatives that were studies in detail in the Final EIS were the Mojave Pipeline Company (Mojave) Project, the Kern River Gas Transmission Company (Kern River) Pipeline Project, the Joint Kern River/Mojave Pipeline Project, and the Wyoming-California Pipeline Company (WyCal) I and II Projects. FERC's Final EIS concluded that none of these proposed alternatives would be environmentally preferable to the PGT/PG&E project in light of the mitigation which has been developed either by PGT/PG&E, FERC, or one of the other federal or state land managing agencies and would be imposed on PGT and PG&E.

2. Energy Efficiency/System Optimization Alternative

An alternative considered by CPUC which was not adopted was a plan for improvements in energy efficiency and use of existing pipeline supply capacity. The Final EIR determined that this alternative had the potential to eliminate the need for the PGT/PG&E expansion project and would be the environmentally superior alternative. This plan would avoid the impacts associated with the construction and operation of major pipeline systems and makes efficient use of energy and avoids substantial depletions of nonrenewable resources.

3. Route Variations

The new pipeline loops would be installed on existing PGT/PG&E right-of-way for all but about 100 miles, or about 88 percent of the proposed route. Over 95 percent of the proposed pipeline would be within or adjacent to existing utility or transportation rights-of-way. In general, PGT and PG&E propose to install the loops 20–30 feet from the existing pipeline on existing right-of-

[11] CPUC Docket No. (A.) 89-04-033.

[12] Several of the blanket applications indicated that amended requests would be filed for longer-term imports upon execution of long-term gas purchase agreements with Canadian suppliers.

[13] 49 FR 8684, February 22, 1984.

way with widths ranging from 50–100 feet.

a. *PGT* Alternative pipeline alignments were evaluated in two locations along PGT's proposed route where construction would result in potentially significant impacts on environmental resources. PGT's proposed route in Idaho through the Moyie River Valley would involve eight crossings of the Moyie River, increasing the likelihood that significant individual and cumulative impacts would occur on water quality and coldwater fish populations. It would also result in adverse, although not necessarily significant impacts on sensitive wildlife species, wetland areas, visual resources, cultural resources, and recreational uses.

A second location where use of an alternative route alignment was considered is the John Day River Canyon area in Oregon. PGT's existing pipeline is located within the floodplain of Thirtymile Creek. Because past flooding had threatened the security of the existing pipeline, PGT decided that the proposed pipeline loops should not be built in the same area. Therefore, PGT developed an alternative route called the John Day Variation. However, there was a potential need to modify part of the John Day Variation to avoid Hannafin Canyon. Hannafin Canyon has steep slopes; therefore slope stability and pipeline integrity are of concern. In addition, construction of the proposed pipeline across these extremely steep slopes increases the probability that adverse residual visual impacts and restoration difficulties would occur. Therefore, to eliminate these potentially significant impacts, the Hannafin Canyon Alternative route was developed and analyzed.

The Final EIS concluded that construction using a reroute in the Moyie River Valley called the Camp Nine Alternative would likely result in greater significant impact than would construction using PGT's proposed route. Also, the Final EIS did not recommend that the Hannafin Canyon Alternative be used to replace a segment of the John Day River Variation. The original John Day Variation, with implementation of both FERC's mitigation measures and the construction and restoration plan proposed by PGT, was preferred in the Final EIS because it would avoid significant long-term impacts to agricultural land associated with the Hannafin Canyon Alternative.

b. *PG&E.* The proposed PG&E pipeline route and five route alternatives were examined by CPUC in detail in California. These include alternatives in the vicinity of the Jepson Prairie Preserve and alternative routes in the rapidly urbanizing Brentwood-Antioch area. The Final EIR concluded that all Jepson Prairie Preserve and Brentwood pipeline route alternatives would have significant and unavoidable geologic and public safety impacts even if all recommended mitigation measures were implemented because they would cross earthquake fault areas.

Because the alternative Jepson Prairie Preserve and Brentwood reroutings called Alternative B and Alternative 4, respectively, would have the least effect on special status wildlife species, vernal pools, land use, cultural resources, and visual resources, they were the environmentally preferred alternative pipeline routes in the Final EIR. Alternative 4 would eliminate the proposed expansion of the existing Brentwood compressor station because it is more than 5 miles from the pipeline route.

To reduce the impacts on special status wildlife species from Alternative B and Alternative 4, breeding habitat would be avoided. If avoidance were not feasible, compensation would be made for lost habitat by enhancing nearby suitable habitat or rehabilitating the habitat lost.

In addition to Alternative B and Alternative 4, the Final EIR recommended two other realignments of PG&E's proposed pipeline route, called the Shasta County Cypress Forest Reroute West and the Contra Costa County Alkali Meadow and Vernal Pool Reroute. These realignments would avoid the potential impacts to the northern interior cypress forest in Shasta County and the northern claypan vernal pools and alkali meadow in Contra Costa County.

Alternative Route 4 and Alternative Route B, including the Contra Costa County Alkali Meadow and Vernal Pool Reroute, were certificated by CPUC in its decision of December 27, 1990.

4. Brentwood Compressor Station Alternatives

Three alternative sites for building a compressor station in the Brentwood area were analyzed in addition to PG&E's proposal to expand the existing station. The Final EIR concluded that even if all mitigation measures were implemented, every Brentwood compressor station site would have significant and unavoidable geologic and public safety impacts because of the presence of earthquake faults in those areas. In addition, significant and unavoidable land use impacts could occur at each of the sites either from the conversion of up to 20 acres of potentially prime farmland or conflicts with existing and planned urban development in the Brentwood area.

Overall, the alternative site for the Brentwood compressor station known as Site C used with the recommended pipeline reroute Alternative 4 would have the fewest environmental impacts. Accordingly, CPUC certificated Alternative Compressor Station Site C in its decision of December 27, 1990.

5. No-Action Alternative

In this instance where eight discrete applications to import natural gas are involved, FE could deny authorization of any or all import proposals under the no-action alternative. However, regardless of whether these imports are approved, the facility additions proposed on the PGT and PG&E systems could still take place because both FERC and CPUC have issued certificates of public convenience and necessity.

If any of the imports is not authorized by FE, the projected need for supplies of natural gas in the markets that each of the importers propose to serve would have to be met by other means or go unmet. If these additional supplies of natural gas were not available, existing energy sources and/or conservation efforts would continue to be used. Natural gas would not be available to supplement these sources or for fuel switching. The benefits of increased gas use in attaining air quality standards for California in the future could be effected in other fuels, such as oil, were used instead of gas.

The potential would also exist for energy demand to exceed available supply, thus driving up energy prices and exerting an indirect limiting effect on growth. This could result in either positive or negative impacts on resources, depending on how policymakers and end-users deal with a curtailment in future natural gas availability.

6. Summary of Environmental Impact

a. *Geology.* Geologic hazards with the greatest potential risk for the proposed pipeline include potentially active faults, areas with a high liquefaction potential, and potential landslide areas. With the exception of potential landslide and slope stability concerns associated with the John Day River Canyon area, geologic hazards are not expected to significantly impact pipeline construction or operation because pipeline design and installation criteria would adequately mitigate the potential hazards.

b. *Soils.* Adverse soil-related impacts that could occur along the proposed

PGT/PG&E Project route during construction include the disturbance or conversion of prime farmland to nonagricultural uses and the disturbance of soils with poor or poor-to-fair rehabilitation potential PGT and PG&E do not propose to locate any aboveground facilities on prime farmland.

FERC has compiled a standard set of erosion control, revegetation, and maintenance procedures (hereafter referred to as FERC's ECR&MP) that each proposed interstate pipeline project is required to implement to prevent or minimize the occurrence of significant soil related impacts (see Appendix B–1 of the Final EIS). These procedures, when combined with similar mitigation measures required by CPUC in its certificate of public convenience and necessity (see appendix B), would induce revegetation of all areas disturbed by construction of the PGT/PG&E expansion facilities, and minimize impacts associated with wind and water erosion, soil structure damage, soil compaction, and drainage alterations. Nevertheless, adequate revegetation on portions of the project route may take several years to become reestablished due to historically low precipitation rates in some regions.

c. Water Resources. Construction by PGT and PG&E across perennial water bodies, intermittent streams, major rivers, and water bodies with contaminated sediments have the greatest potential to result in adverse hydrologic and water quality-related environmental impact. The potential impact on these water bodies includes increased turbidity, sedimentation, decreased dissolved oxygen concentrations, releases of chemical and nutrient pollutants from sediments, and introduction of chemical contaminants, such as fuels and lubricants.

FERC has compiled a standard set of procedures that each proposed interstate pipeline project is required to implement to minimize the crossing and disturbance of stream and wetlands ecosystems (see appendix C–3 of the Final EIS). These procedures, when combined with similar mitigation measures required by CPUC in its certificate of public convenience and necessity (see appendix B), would ensure that the wetland-related impacts of constructing the PGT/PG&E expansion facilities are temporary and minor, and would prevent the filling or resulting loss of any wetland acreage.

d. *Land Use.* The primary adverse land use-related impact present along the PGT route involves the temporary construction of right-of-way and additional workspace areas that would be cleared within 50 feet of one or more residential structures. Additional land use concerns include construction across federal or state owned or managed property; potential conflict between the project and existing or planned land use designations, or government land management plans, policies, and regulations; the amount of land temporarily disturbed during construction; and the disturbance of agricultural cropland during construction. Construction activities associated with PG&E's pipeline looping generally would not conflict with existing or proposed land development or management policies.

Again, implementation of the mitigation measures required in FERC's ECR&MP and compliance with the mitigation measures required by CPUC in its certificate of public convenience and necessity (see appendix B) would ensure that impacts associated with the temporary disturbance of land during construction would not be significant.

e. *Wildlife and Vegetation.* Adverse impacts on vegetation and wildlife associated with the construction of the PGT/PG&E facilities include impact on wetland and riparian habitat and forested areas and disturbance of big game, upland bird, and water fowl habitat. In particular, the proposed PGT pipeline route in Idaho and Oregon would cross habitat for two federally listed endangered wildlife species. Also, habitat for three federally listed endangered wildlife species and two endangered plant species would be affected by the construction of PGT's facilities in California.

FERC and CPUC have formulated mitigation measures to minimize or eliminate any negative impact that construction of PGT/PG&E's expansion project would have on both state and federal endangered, threatened, rare, or other special-status vegetation and wildlife. Implementation of the environmental conditions attached to the PGT and PG&E certificates would avoid jeopardizing the continued existence of these species.

f. *Fish.* PGT's facilities would cross three water bodies that support anadromous fish populations, nine waterbodies that provide important spawning habitat for fish, and 14 water bodies that are considered to be important recreational fisheries. In addition, PG&E's facilities would cross 15 water bodies that support anadromous fish populations, 14 water bodies that provide important spawing habitat for fish, and 10 water bodies that are considered to be important recreational fisheries.

PGT's construction would not affect any federally listed fish species. However, construction of PG&E's facilities at the Fall River crossing would affect the Shasta crayfish, listed federally as an endangered species.

FERC required PGT to develop for FERC approval a mitigation plant to minimize the potential impacts on both federally listed and state special-status fish species that includes PG&E's facilities. To avoid impacts on the Shasta crayfish, the CPUC required PG&E to bore a subsurface gas line under the Fall River crossing. Also, to prevent significant impacts to other special-status species, CPUC required PG&E to restrict the construction period for certain river crossings and to implement the mitigation procedures approved by FERC.

g. *Socioeconomics.* The PGT/PG&E project would not result in significant impact on socioeconomic resources. The influx of workers associated with construction of the project would not result in temporary population increases of 10 percent or more, nor would local vacancy rates for temporary housing decrease below five percent. In addition, construct of the project would not exceed the ability of local communities and/or county governments to provide essential public services. Finally, the amount of agricultural land and commercial forest land permanently removed from production would not exceed one percent of the total amount available.

h. *Air Quality.* The emissions from construction vehicles and equipment should have little significant impact on the air quality of the region. During pipeline construction, a temporary reduction in local ambient air quality could result from fugitive dust emissions generated by construction equipment. This short-term impact would be limited to the immediate vicinity of the pipeline right-of-way.

PGT proposes to install additional compression facilities at three existing compression stations. All three of these additions may be significant enough to require Prevention of Significant Deterioration of Air Quality (PSD) review.[14] Compliance with the PSD

[14] The Federal PSD regulations (40 CFR 52.2) for "major emissions sources" include a review of existing air quality, the use of modeling analysis to demonstrate compliance with the National Ambient Air Quality Standards and applicable ambient increments, the application of best available technology in controlling emissions, and an analysis of the general impact on the environment. Compliance with these regulations is administered by the state air pollution and control agencies.

permitting process would ensure that air quality impacts are reduced to a less-than-significant level.

i. *Noise.* The primary noise related impact associated with the PGT/PG&E Project involves the construction of additional compression facilities at existing compressor stations. Compressor station operational noise caused by the construction of additional compression facilities could cause a significant impact at one station, Compressor Station No. 3, on the PGT project route. Therefore, FERC required that PGT (1) install an improved air intake silencer on the existing compressor unit at Compressor Station No. 3 to reduce or eliminate the high-frequency noise emanating from this unit and (2) design the noise controls for the proposed turbine compressor and gas cooling equipment to minimize impacts at the nearest noise sensitive area when operating at full load.

j. *Transportation and Safety.* The Final EIS concludes that the PGT/PG&E project would not result in adverse impact on transportation or public safety during construction and operation. All of the proposed pipeline facilities would be designed, constructed, operated, and maintained in accordance with both the standards required and enforced by the U.S. Department of Transportation and CPUC regulations. In addition, mitigation measures that exceed the minimum legal requirements were recommended to further minimize public safety impacts, including construction techniques which would minimize the possibility of pipeline rupture from ground shaking.

k. *Visual Impact.* New structures, such as compressor stations, mainline valves, and signs, would become a part of the landscape. All above ground structures would create permanent moderate to high visual impacts. PGT's certificate of public convenience and necessity issued by FERC requires PGT to locate, design, and paint the semipermanent and permanent facilities at these sites to reduce the impact to a less-than significant level. If technically feasible, electrical lines would be buried.

l. *Cultural Resources.* The PGT/PG&E project could physically destroy, damage, or alter historic properties or historically sensitive area listed on or eligible for inclusion on the National Register of Historic Places (NRHP). Based on cultural resource surveys to date, more than 200 sites are known to exist within the project area. The FERC is currently working with state Historic Preservation officers and the appropriate Federal land management agencies to determine which, if any, of these sites are eligible for inclusion on the NRHP. Mitigation for eligible sites would include re-routing the right-of-way to avoid historic properties, scientific excavation, the use of buffer zones or vegetative screening to reduce or eliminate adverse visual effects, and boring when ground conditions permit.

m. *Paleontologic Formations.* PGT/PG&E project could result in physical modifications to numerous significant paleontological formations through ground-disturbing activities such as trenching. Indirect impacts could result during construction from erosion caused by slope regrading or the unauthorized collection of fossils by project personnel. The environmental conditions in PGT's certificate of public convenience and necessity issued by FERC, require PGT to develop measures to protect paleontological resources where the potential for impact is considered to be high. Where feasible, the pipeline would be relocated to avoid known paleontologic resources. paleontologic resources with significant values that lie solely in the scientific data contained in the deposit would be excavated. Both of these mitigation measures would result in a less-than-significant impact on resources of this type.

n. *Cumulative Impacts.* In the Final EIS, FERC indicated that it was not aware of any other specific projects that are currently under construction or planned in the reasonably foreseeable future in the PGT/PG&E project area which could result in significant cumulative effects on environmental resources. Moreover, the cumulative impacts to vegetation, wildlife, and visual resources as a result of PGT/PG&E constructing pipeline adjacent to and/or within an existing utility corridor in forested areas would not be significant.

However, the Moyie River Valley along the PGT pipeline route is an area were significant cumulative impacts may occur. Cumulative impact in the area would be of an additive nature due to PGT's eight crossings of the Moyie River, and would primarily affect water quality and fisheries. FERC concluded that implementation of PGT's proposed Moyie River Pipeline Crossings Plan would reduce these potential impacts to acceptable levels. In addition, implementation of PGT's proposed plan would provide a long-term benefit to the area because both fish habitat and water quality would be improved as a result of the installation of PGT's proposed fishery enhancement structures.

VII. Considerations in Implementing the Decision

FE has determined that the no-action alternative is the environmentally preferred alternative because the physical impacts to the natural environment identified in the Final EIS associated with the PGT/PG&E project might not occur. However, FE has concluded that these impacts would be minimal and are acceptable when compared to the substantial benefits to be derived from the proposed imports in meeting the current and future energy demand in the Pacific Northwest and California.

In weighing the no-action alternative against the benefits associated with the proposed imports, FE took note of UPUC's findings in approving the expansion by PG&E that even with demand-side management and energy efficiency efforts, there will be a near-term need for an additional 900 MMcf per day of incremental supplies of natural gas in California. In addition, the increased use of clean burning natural gas over petroleum fuels will enhance air quality in California, which has some of the most serious air pollution problems in the nation. Moreover, because the PGT/PG&E project consists almost entirely of pipeline looping using existing cleared pipeline rights-of-way, the environmental impact would be minimized. Finally, FE considered the extent to which FERC and CPUC were able to recommend modifications to the proposed pipeline alignments or develop mitigation measures which minimized impact on wetlands, visual resources, historic areas, threatened or endangered species, sensitive stream crossings, and other areas of concern.

FERC's certificate of public convenience and necessity issued to PGT includes 48 mitigation measures that must be implemented prior to, during, and after construction. There is a clearly defined, standardized set of construction procedures for stream and wetland crossings that would significantly reduce the impact of pipeline construction on these valuable resources. Also, specific erosion control, revegetation, and right-of-way maintenance procedures have been developed. To ensure compliance with all environmental conditions, FERC stipulated in its order that PGT file a plan describing how the required mitigation measures would be implemented.

CPUC's order authorizing construction of PG&E's pipeline expansion in California contains approximately 200

mitigation measures and a monitoring plan.

VIII. Conclusion

At issue in the decision whether to authorize each of the eight natural gas import applications are the potential environmental impacts of constructing and operating the proposed PGT/PG&E project to enable this gas to be delivered. FE determined that implementing the specific mitigation measures required in both FERC and CPUC orders issuing certificates of public convenience and necessity would mininize the negative environmental effects from the PGT/PG&E project and promote the positive effects resulting from the availability of additional volumes of price-competitive natural gas from western Canada. Accordingly, FE has decided to grant the applications filed by the Public Service Department of the City of Burbank, California; the Public Service Department of the City of Glendale, California; the Department of Water and Power of the City of Pasadena, California; Southern California Edison; Pancontinental Oil Ltd.; Pacific Gas and Electric Company; San Diego Gas & Electric Company; and BP Resources Canada Limited and determined that this decision is not inconsistent with the public interest under section 3 of the NGA.

Issued in Washington, DC, on May 19, 1992.

James G. Randolph,

Assistant Secretary for Fossil Energy.

[FR Doc. 92-12079 Filed 5-21-92; 8:45 am]

BILLING CODE 6450-01-7

[Docket No. FE C&E 92-07; Certification Notice—100]

Filing Certification of Compliance: Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternative fuel as a primary energy source (FUA section 201(a), 42 U.S.C. 8311(a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is rquired to publish in the **Federal Register** a notice reciting that the certification has been filed. One owner and operator of a proposed new electric base load powerplant has filed a self-certification in accordance with section 201(d).

Further information is provided in the **SUPPLEMENTARY INFORMATION** section below.

SUPPLEMENTARY INFORMATION: The following company has filed a self-certification:

Name	Date received	Type of facility	Megawatt capacity	Location
Vineland Cogeneration Limted Partnership, Wilmington, DE	05-12-92	Topping Cycle	46.5	Vineland, NJ.

Amendments to the FUA on May 21, 1987 (Pub. L. 100-42), altered the general prohibitions to include only new electric base load powerplants and to provide for the self-certification procedure.

This self-certification may be reviewed in the Office of Fuels Programs, Fossil Energy, room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, or for further information call Myra Couch at (202) 586-6769.

Issued in Washington, DC on May 18, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc 92-12083 Filed 5-21-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TM92-10-21-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 15, 1992

Take notice that Columbia Gas Transmission Corporation (Columbia) on May 8, 1992, filed revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, listed in Attachment 1 to the filing, to be effective June 8, 1992.

Columbia states that by this filing it proposes to modify the tariff sheets it has filed pursuant to Order No. 528, in part to respond to an order dated January 4, 1991, in Docket No. RP91-41-000. Columbia proposes (i) to reflect the inclusion of applicable interest amounts associated with the Over/Under principal amounts as set forth on Columbia's tariff sheets as applicable to various upstream pipeline dockets and (ii) to reallocate to its customers the currently billed fixed monthly demand surcharges applicable to Transcontinental Gas Pipe Line Corporations (Transco) Docket No. RP88-68 and RP91-147, to be flowed through from November 1, 1991 to October 31, 1992. The Transco-related revision reflects the fact that two new customers, Gasco Distribution Co. and Public Service Electric and Gas Co., did not initiate service by the November 1 deadline but were included in a prior Columbia take-or-pay allocation filing; the revised tariff sheets therefore exclude them from the revised allocation. Columbia also states that Columbia is removing the tariff sheets applicable to Docket No. RP90-179, as the amortization period has been completed. Columbia notes that no change is proposed in the remaining total level of Transco costs to be flowed through.

Columbia states that copies of the filing were served upon Columbia's jurisdictional customers, interested state commissions, and upon each person designated on the official service list compiled by the Commission's Secretary in Docket Nos. RP88-187, *et al.*, and RP91-41, *et al.*

Any person desiring to be heard or to protest said filing should file a motion to

intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-11993 Filed 5-21-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-6-25-000]

Mississippi River Transmission Corp; Rate Change Filing

May 15, 1992

Take notice that on May 11, 1992 Mississippi River Transmission Corporation (MRT) tendered for filing Fifth Revised Sheet No. 4A.6 and Third Revised Sheet No. 4A.7 to be effective June 11, 1992 to its FERC Gas Tariff, Second Revised Volume No. 1.

MRT states that the purpose of the instant filing is to reflect the flowthrough of increased take-or-pay charges to MRT as reflected in Natural Gas Pipeline Company's (Natural) filing dated May 1, 1992 in Docket No. RP92-167-000, and Trunkline Gas Company's (Trunkline) filing dated February 27, 1992 in Docket No. RP92-124-000, *et al.* Amortization periods reflected in the Natural and Trunkline filings are six months and sixty months, respectively. MRT states that the increases have been allocated to MRT's customers in accordance with MRT's June 26, 1991 "Stipulation and Agreement on the Allocation and Recovery of Transition Costs from Upstream Pipelines" (Settlement) approved by Commission Order dated July 25, 1991, and in accordance with Paragraph 21(b)(iii) of MRT's FERC Gas Tariff, Second Revised Volume No. 1.

MRT states that a copy of this filing has been mailed to each of MRT's jurisdictional sales customers and to the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc 92-11992 Filed 5-21-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP92-1-000 and CP92-71-000]

Northern Natural Gas Co.; Notice of Informal Settlement Conference

May 15, 1992.

Take notice that an informal settlement conference will be convened in the above-captioned proceeding at 1 p.m. on June 1, 1992, at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets. The conference will resume at 10 a.m. on June 2.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information please contact Michael D. Cotleur, (202) 208-1076, or John J. Keating, (202) 208-0762.

Lois D. Cashell,

Secretary.

[FR Doc. 92-11991 Filed 5-21-92; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-4135-6]

Environmental Impact Statements; Availability

RESPONSIBLE AGENCY: Office of Federal Activities. General Information (202) 260-5076 OR (202) 260-5075. Availability of Environmental Impact Statements Filed May 11, 1992 Through May 15, 1992, Pursuant to 40 CFR 1506.9.

EIS No. 920169, DRAFT SUPPLE, AFS, WY, Bighorn National Forest Land and Resource Management Plan, Updated Information, Amendment to the Timber Harvest, Standards and Guidelines, Bighorn Mountain Range, Bighorn, Johnson, Sheridan and Washakie Counties, WY, Due: August 15, 1992, Contact: Larry Keown (307) 672-0751.

EIS No. 920170, FINAL EIS, FHW, NH, New Hampshire Route 101/51 Corridor Improvement, Eppington to Hampton, Funding, COE Section 10 and 404 Permits and U.S. Coast Guard Permit, Rockingham County, NH, Due: June 22, 1992, Contact: William F. O'Donnell (603) 225-1608.

EIS No. 920171, FINAL EIS, COE, AK, Southeast Alaska Harbors Improvement, Construction of Offshore Breakwaters in Sitka Channel for Protection and Expansion of Thomsen Harbor, Implementation, AK, Due: June 22, 1992, Contact: Guy R. McConnell (907) 753-2614.

EIS No. 920172, DRAFT EIS, AFS, UT, Kamas Valley Grazing Allotment Management Plan, Implementation, Wasatch-Cache National Forest, Kamas Ranger District, Summit County, UT, Due: July 06, 1992, Contact: Clare Chalkley (801) 783-4338.

EIS No. 920173, FINAL EIS, FHW, CA, CA-267 Bypass Construction, between I-80 and Truckee Area Bypass, Funding and Section 404 Permit, Nevada County, CA, Due: June 22, 1992, Contact: John Schultz (916) 551-1140.

EIS No. 920174, FINAL SUPPLEMENT, FHW, NY, Elmira North-South Arterial Construction, South Section, NY-14/328 to Clements Center Parkway at Pennsylvania Avenue, Updated Information, Funding, City of Elmira and Town of Southport, Cehmung County, NY, Due: June 22, 1992, Contact: Harold J. Brown (518) 472-3616.

EIS No. 920175, DRAFT EIS, GSA, TX, Del Rio Border Station Facilities Expansion, Funding, Val Verde County, TX, Due: June 29, 1992, Contact: Bobby Shelton (817) 334-2095.

EIS No. 920176, FINAL EIS, BOP, OK, Federal Transfer Center (FTC), Construction and Operation, Site Specific, Southeast corner of MacArthur and Southwest 74th Street, West of the Will Rogers World Airport, Oklahoma County, OK, Due: June 22, 1992, Contact: Patricia K. Sledge (202) 514-6470.

EIS No. 920177, FINAL EIS, NOA, SC, North Inlet/Winyah Bay National Estuarine Research Reserve Management Plan, Site Designation and Funding, Georgetown County, SC, Due: June 22, 1992, Contact: Annie Hillary (202) 606-4122.

EIS No. 920178, DRAFT EIS, AFS, OR, Mineral Hill and East Fork Pistol River Timber Sales and Other Projects, Implementation, Siskiyou National Forest, Chetco Ranger District, Curry County, OR, Due: July 07, 1992, Contact: Jerry Darbyshire (503) 469–2196.

EIS No. 920179, FINAL EIS, FHW, UT, Utah Forest Highway 5 and Wolf Creek Road, UT–35 Improvement, North Fork Provo River Bridge to Stockmore, Funding and Section 404 Permit, Cuchesne, Wasatch and Summit Counties, UT, Due: June 22, 1992, Contact: William R. Bird (303) 236–3410.

EIS No. 920180, DRAFT EIS, AFS, WA, Kettle River Key Open-Pit Gold Mining Expansion Project, Construction and Operation, Plan of Operation Approval and NPDES Permit, Colville National Forest, Republic Ranger District, Ferry County, WA, Due: July 22, 1992, Contact: Patricia Egan (509) 775–3305.

EIS No. 920181, FINAL EIS, USA, HI, Strategic Target System Program, Launching of non-nuclear payloads from the Kauai Test Facility at the Pacific Missile Test Facility, Island of Kauai, HI, Due: June 22, 1992, Contact: D.R. Gallien (205) 955–3058.

EIS No. 920182, DRAFT SUPPLEMENT, FAA, MN, Minneapolis St. Paul International Airport, Runway 4–22 Extension, Additional Information, Funding, World-Chamberlain Field, Hennepin County, MN, Due: July 06, 1992, Contact: Glen Orcutt (612) 725–4221.

Amended Notices

EIS No. 920103, DRAFT EIS, FHW, MN, I–35 W/Washington Avenue South in Minneapolis to I–35E in Burnsville Improvements, Construction and Reconstruction, Funding, Section 404 and 10 Permits, U.S. CGD Permit, Cities of Minneapolis and Burnsville, Hennepin and Dakota Counties, MN. Due: May 29, 1992, Contact: Stephen Bahler (612) 290–3259. Published FR 04–03–92—Due Date Correction.

Dated: May 19, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92–12089 Filed 5–21–92; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4135–7]

Environmental Impact Statements and Regulations; availability of EPA Comments

Availability of EPA comments prepared May 04, 1992 Through May 08, 1992 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1992 (57 FR 12499).

DRAFT EISs

ERP No. D–AFS–J65189–MT Rating LO1, Halfmoon Timber Harvest Sale, Road Construction and Reconstruction, Implementation, Flathead National Forest, Hungry Horse Ranger District, Flathead County, MT.

Summary

EPA has no objections to the proposed project.

ERP No. D–AFS–L65163–ID Rating EC2, Far East Salvage Project, Rehabilitation and Recovery of Insect Damaged Resource Timber Management Plan, Implementation, Upper South Fork Payett River, Boise National Forest, Lowman Ranger District, Boise County, ID.

Summary

EPA has environmental concerns based on the potential for adverse water quality effects and air quality effects. Additional information is needed to describe the effectiveness of mitigation measures, clarify water quality effects, discuss the judicial appeal process, and noise effects from helicopter logging.

ERP No. D–FTA–K51035–CA Rating EC2, San Francisco International Airport Extension, Transportation Improvements, Bay Area Rapid Transit District (BART) Funding, San Mateo County, CA.

Summary

EPA expressed environmental concerns with the proposed action due to potential impacts to wetland habitats of endangered species. EPA believes that the DEIS did not sufficiently evaluate and discuss potential impacts to wetlands, including identifying the least damaging practicable alternative. EPA urged the Federal Transit Administration to propose measures to minimize and mitigate adverse impacts.

ERP No. D–VAD–F99008–OH Rating EC2, Cleveland Area National Cemetery Construction and Operation, Site Selection, Franklin, Concord and Guilford Townships, North Ridgeville and Massillon Cities, Summit, Lake, Lorain, Stark and Medina Counties, OH.

Summary

EPA expressed environmental concerns about wetland impacts, water quality degradation and woodland impacts.

ERP No. DS–AFS–L65150–ID Rating LO, Accelerated Engelmann Spruce Harvest and Reforestation Brush Creek, Hendricks Creek and Copet Creek, Salvage Timber Sales, Implementation, Updated Information, Payette National Forest, McCall Ranger District, Payette National Forest, Idaho and Valley Counties, ID.

Summary

EPA has no objections to the proposed project.

ERP No. DS–DOE–L08046–WA Rating EC2, Washington Water Power and British Columbia Hydro 230kV Transmission Interconnection, Updated Information and Modifications, Construction, Operation and Maintenance, Presidential Permit, Pend Oreille, Spokane, Stevens and Lincoln Counties. WA.

Summary

EPA has environmental concerns based on the potential impacts to wetland resources. Additional information is needed to described the wetlands that will be affected by the proposed project, the functions and values of the affected wetlands, and the detailed mitigation measures that will be included in the preferred alternative.

FINAL EISs

ERP No. F–COE–K36101–NV, Las Vegas Wash and Tributaries (Tropicana and Flamingo Washes) Flood Damage Reduction Plan, Implementation and Funding, Las Vegas Valley, Clark County, NV.

Summary

EPA is concerned with cumulative impacts and proposed mitigation. EPA believed the project's response to future urban development drainage requirements promote the rate and extent of development and associated environmental impacts.

ERP No. F–FHW–K40016–CA, CA–710/Long Beach Freeway (Formerly CA–7) Construction, I–10/San Bernadino Freeway to I–210/Foothill Freeway, Funding, Los Angeles, CA.

Summary

EPA's review of the final EIS was not deemed necessary.

Dated: May 19, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92-12090 Filed 5-21-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 221-003463-003.

Title: Union Equity Co-Operative Exchange/Farmland Industries, Inc. Assignment of Lease Agreement.

Parties: Union Equity Co-Operative Exchange ("Union") Farmland Industries, Inc. ("Farmland").

Synopsis: The subject Agreement is an assignment of lessee's interest under Lease Agreement No. T-3463 with the Board of Trustees of the Galveston Wharves, Galveston, Texas, from Union to Farmland.

Agreement No.: 221-003463-004.

Title: Union Equity Co-Operative Exchange/Farmland Industries, Inc. Asset Acquisition Agreement.

Parties: Union Equity Co-Operative Exchange Farmland Industries, Inc.

Synopsis: The Agreement provides for the acquisition by Farmland Industries, Inc. of a public warehouse in Houston, Texas owned by Union Equity Co-Operative Exchange.

Agreement No: 224-003800-005.

Title: City of Long Beach/California United Terminals Preferential Assignment Agreement.

Parties:

The City of Long Beach
California United Terminals

Synopsis: The Agreement specifies certain arrangements and understandings between the parties in regard to improvements that are to be made by the City of Long Beach to the terminal facilities.

Agreement No: 224-200060-020.

Title: Port of New Orleans/Coastal Cargo Terminal Agreement.

Parties:

The Port of New Orleans ("Port")
Coastal Cargo Company ("Coastal")

Synopsis: The amendment cancels Coastal's lease arrangement with the Port as it pertains to sections 21 through 30 of the Galvez Street Wharf. The remainder of the leasing agreement between the parties remains in effect.

Agreement No: 203-011117-012.

Title: United States/Australasia Interconference and Carrier Discussion Agreement.

Parties:

Australia-New Zealand Direct Line, Blue Star PACE Limited
Compagnie Generale Maritime
Hamburg-Sudamerikanische Dampfschifffahrts-Gesellschaft Eggert & Amsinck
Ocean Star Container Line A.G.
Pacific Coast/Australia-New Zealand Tariff Bureau
U.S. Atlantic & Gulf/Australia-New Zealand Conference
Wilhelmsen Lines AS

Synopsis: The proposed amendment will delete Compagnie Generale Maritime as a party to the Agreement. The parties have requested a shortened review period.

Agreement No: 217-011376.

Title: Mitsui O.S.K. Lines, Ltd. and Hyundai Merchant Marine Co. Ltd. Space Charter Agreement in the Far East-U.S. Pacific Northwest Trades.

Parties:

Mitsui O.S.K. Lines, Ltd. ("MOL")
Hyundai Merchant Marine Co., Ltd. ("HMM")

Synopsis: The proposed Agreement will authorize MOL to charter up to 500 TEU's of space to HMM on each of MOL's vessels in the trade between ports in the Far East and ports in Oregon and Washington.

By Order of the Federal Maritime Commission.

Dated: May 18, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-11990 Filed 5-21-92; 8:45 am]

BILLING CODE 6730-01-M

Correction

By notice published in the **Federal Register** on Tuesday, April 28, 1992 (57 FR 17917) W.J. Browning Company, Inc. was incorrectly listed as having its ocean freight forwarder license (No. 243) revoked because of a failure to furnish a valid bond. This is incorrect, W.J. Browning Company, Inc., did not have its license revoked due to its failure to furnish a bond. Rather, W.J. Browning Company, Inc. voluntarily surrendered its license for revocation.

Dated: May 19, 1992.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 92-12038 Filed 5-21-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Board of Governors of the Federal Reserve System Agency Forms Under Review

May 18, 1992.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instruments will be placed into OMB's public docket files. The following form, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations receive, will be submitted to the Board for final approval under OMB delegated authority.

DATES: Comments must be submitted on or before June 8, 1992.

ADDRESSES: Comments, which should refer to the OMB Docket number, should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.8(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829).

Proposal to approve under OMB delegated authority the extension without revision of the following report:

1. *Report title:* Statement for Purpose for an Extension of Credit by a Creditor.
Agency form number: FR T–4.
OMB Docket number: 7100–0019.
Frequency: As needed.
Reporters: Individuals, brokers and dealers.
Annual reporting hours: 117.
Estimated average hours per response: 10 minutes.
Number of respondents: 700.
Small businesses are not affected.
General description of report: This information collection is required by law [15 U.S.C. 78G and 78W; 12 CFR 220.]
Abstract: Federal Reserve Stock Regulation T requires that a written report be completed whenever a broker-dealer makes a loan in excess of the current margin requirement, without collateral, or on any collateral other than securities, and where the credit is not for the purpose of purchasing or carrying securities. The report provides a record of the amount of "nonpurpose" credit being extended, the purpose for which the money is to be used, and a listing and valuation of collateral.

Board of Governors of the Federal Reserve System, May 18, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92–12006 Filed 5–21–92; 8:45 am]

BILLING CODE 6210–01–M

Barnett Banks, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 15, 1992.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Barnett Banks, Inc., Jacksonville, Florida; to acquire an additional 7.5 percent, for a total of 15 percent, of the voting shares of Southeast Switch, Inc., Maitland, Florida, and thereby engage in operating an automated teller machine network, pursuant to § 225.25(b)(7) of the Board's Regulation Y, and offering consulting services to electronic funds transfer networks, pursuant to § 225.25(b)(11) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 18, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–12000 Filed 5–21–92; 8:45 am]

BILLING CODE 6210–01–F

Commercial Bancorp of Georgia, Inc., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 15, 1992.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Commercial Bancorp of Georgia, Inc., Atlanta, Georgia; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Michigan National Corporation, Farmington Hills, Michigan; to engage *de novo* in providing data processing services to financial and banking institutions, pursuant to § 225.25(b)(7) of the Board's Regulation Y, through the acquisition of a to-be-formed wholly owned subsidiary, Acquico, Inc., Dallas, Texas, which will acquire all of the assets and assume certain liabilities of BancA Corporation, Dallas, Texas.

Board of Governors of the Federal Reserve System, May 18, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-12001 Filed 5-21-92; 8:45 am]

BILLING CODE 6210-01-F

Jay H. Lustig; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than June 11, 1992.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Jay H. Lustig, Redondo Beach, California; to acquire 20 percent of the voting shares of National Bancshares Corporation of Texas, San Antonio, Texas, and thereby indirectly acquire NBC Bank - Eagle Pass, N.A., Eagle Pass, Texas, NBC Bank - Laredo, N.A., Laredo, Texas, and NBC Bank - Rockdale, Rockdale, Texas.

Board of Governors of the Federal Reserve System, May 18, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-11999 Filed 5-21-92; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

Program for Federal-State Cooperation in Merger Enforcement

AGENCY: Federal Trade Commission.

ACTION: Notice of implementation of program for federal-state cooperation in merger enforcement.

SUMMARY: The Commission is implementing a program to facilitate federal-state cooperation in merger enforcement. Under the program, the Commission will exchange with state antitrust enforcement authorities certain information and analysis developed in investigations under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, provided that the parties who submit filings under the Act consent to a limited waiver of the statute's confidentiality protections.

EFFECTIVE DATE: May 13, 1992.

FOR FURTHER INFORMATION CONTACT: Geoffrey M. Green, Assistant to the Director, Bureau of Competition, (202) 326-2641.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 6, 1992, 57 FR 8127, the Commission announced that it was considering a program for Federal-State cooperation in merger enforcement, and solicited public comment. Two comments were received, one supporting the proposal and one raising several concerns. The Commission is now implementing the program, with minor clarifications.

As explained previously, the program will complement the National Association of Attorneys General Voluntary Pre-Merger Disclosure Compact ("Compact"). The Compact applies when a proposed merger, acquisition, or other transaction is subject to reporting requirements under section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("HSR Act"). The HSR Act requires that the parties to most significant acquisitions of voting securities or assets notify the Commission (and the Department of Justice) in advance, and delay consummation of the transaction until certain waiting periods specified in the Act have elapsed.

Under the Compact, participating states agree that they will not serve demands for information during the HSR waiting period and prior to instituting a judicial proceeding to enjoin a proposed transaction, if the parties to the proposed transaction ("submitters") provide specified information to the liaison state defined by the Compact. The information specified includes copies of (1) the submitters' HSR filings; (2) second requests for additional information issued pursuant to section 7A(e)(1) of the HSR Act, 15 U.S.C. 18a(e)(1), or other requests directed to submitters by Federal antitrust enforcement authorities; and (3) on request by a participating state, materials provided by submitters in response to such further Federal requests.

Under the Commission program, the Commission will provide certain additional information to participants in the Compact who submit a certification of confidentiality to the General Counsel of the Commission ("General Counsel"). A model certification follows at appendix I. The information will be provided, however, only if all of the submitters choose (1) to provide a copy of their HSR filings to the liaison state under the Compact (the Commission will not provide a copy of HSR filings to any state), and (2) to provide the Assistant Director for Premerger Notification in the Bureau of Competition with letters waiving confidentiality protections under Federal law, insofar as those protections constrain disclosures by the Commission to members of the Compact. A model letter follows at appendix II.

If waivers are received from the submitters, the Commission will thereafter respond to requests for assistance from the participating liaison state. Specifically, under this program, Commission staff will provide the liaison State with the following information.

First, staff will provide copies of second requests, and copies of third party subpoenas with the identities of the subpoena recipients redacted. (If redaction of identities is insufficient to protect confidential information about subpoena recipients, individual specifications may be deleted or entire subpoenas may be withheld).

Second, staff will identify the expiration dates of HSR waiting periods.

Third, staff will provide limited assistance in analyzing the merger. However, staff will not disclose specific recommendations made or to be made to agency decisionmakers, and will limit disclosures as necessary to protect confidential information, including information supplied by third parties.

The program contains several safeguards to protect the confidentiality of this limited information that the Commission will provide to states. First, a state that obtains information under the program can share such information only with other states that have

completed a confidentiality certification. The General Counsel's office will maintain a list of participating states, and will provide the list to each participating state.

Second, a participating state must advise the Commission's General Counsel if it receives a discovery request or public access request for information obtained under the program. Further, the state must assert vigorously any privilege or exemption claimed by the General Counsel, or assist the General Counsel in intervening in a proceeding to assert the exemption or privilege. In no event may the state take any action or make any statement that will compromise the Commission's claim of confidentiality.

In deciding to implement this program, the Commission has considered the two concerns raised by Mr. Robert O'Connell of Murray Hill, New Jersey. First, Mr. O'Connell expressed concern that the program would permit disclosure of filings from all the submitters in a transaction even if only one of the submitters had waived confidentiality protections. As the description above clarifies, the Commission will share information under the program only when all the submitters consent.

Second, Mr. O'Connell urged the Commission to require an indemnification agreement from states participating in the program, so that submitters will have effective recourse if information that is provided to the states is improperly disclosed. The Commission declines to pursue this proposal. As the Federal Register notice proposing the program explains, the Commission will not provide the HSR filings themselves to states. The purpose of the confidentiality protections accorded under the Commission program is to protect only "the limited information that the Commission would itself provide to states." The model waiver letter in appendix II therefore makes explicit that the Commission program does not provide for disclosure of HSR filings by the Commission, but that these filings will be released to participating states by the submitters pursuant to the Compact, and will be provided only with such confidentiality protections as are accorded by the Compact and its members.[1]

As to the limited confidential information to be disclosed by the Commission (and not previously disclosed to the states by the parties) the certification of confidentiality from the states provides adequate protection. The Commission routinely shares sensitive information with states pursuant to confidentiality agreements that have no indemnification provision. See 16 CFR 4.11(c). Congress has deemed "a certification * * * that * * * information will be maintained in confidence and will be used only for official law enforcement purposes" as adequate protection for the Commission to share trade secrets and confidential commercial information with state law enforcement agencies. 15 U.S.C. 46(f); see also 15 U.S.C. 57b–2(b)(6) (providing for sharing of protected information received under compulsory process in an investigation). Since Congress did not require an indemnification agreement as a prerequisite for sharing sensitive information obtained under the FTC Act, and since the Commission's own experience indicates that a certification of confidentiality provides adequate protection for information shared with states, it is not necessary or appropriate to obtain an indemnification agreement to share HSR information pursuant to a waiver.

Appendix I—Model Certification for States

To: General Counsel, Federal Trade Commission, Washington, DC 20580.

Re: Participation in Program for Federal-State Cooperation in Merger Enforcement: Certification of Intent to Maintain Confidentiality.

On behalf of the Attorney General of _____ (name of jurisdiction), I certify that the _____ (name of jurisdiction) will maintain the confidentiality of all information and analysis (hereafter "information") obtained directly from the Commission under the captioned program, as well as all information obtained indirectly from the Commission through another state participating in the program. All information obtained under the program will be used only for official law enforcement purposes.

If any such information is subject to a discovery request in litigation or an access request under a public access law, the _____ (name of jurisdiction) will advise the General Counsel of the Federal Trade Commission ("General Counsel") of the request, and will vigorously assert any privilege or exemption claimed by the General Counsel, or assist the General Counsel in intervening in a state or federal proceeding to protect the information in question. In no event will any action be taken, or any statement be made, that will compromise the Commission's claim of confidentiality.

I understand that information obtained pursuant to this certification may be shared with other state Attorney General offices only if they have filed a certification with the General Counsel.

Signed: _____
Position: _____
Telephone: _____

Appendix II—Model Waiver for Submitters

TO: Assistant Director for Premerger Notification, Bureau of Competition, Federal Trade Commission, Washington, DC 20580.

With respect to [the proposed acquisition of X Corp. by Y. Corp.], the undersigned attorney or corporate officer, acting on behalf of [indicate entity], hereby waives confidentiality protections under the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, the Hart-Scott-Rodino Act, 15 U.S.C. 18a(h), and the Federal Trade Commission's Rules of Practice, 16 CFR 4.9 *et seq.*, insofar as these protections in any way limit discussions about [identity of transaction] between the Federal Trade Commission and members of the NAAG Voluntary Pre-merger Disclosure Compact ("Compact").

In understand that the Commission will not provide the states with copies of filings by [indicate entity] under the Hart-Scott-Rodino Act. Rather, these materials will be provided to the states by [indicate entity] pursuant to the Compact, and will be provided only with such confidentiality protections as are accorded by the Compact and its members.

Signed: _____
Position: _____
Telephone: _____

End of Appendix II

(Authority: 15 U.S.C. § 46).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92–12073 Filed 5–21–92; 8:45 am]

BILLING CODE 6750–01–M

[1] Under the Compact, members "agree to keep confidential the H.S.R. filing, [and] not to make any portion of such filing public except as may be relevant to instituting a judicial action to enjoin the merger or file comments with regard to the merger with federal enforcement agencies * * *."

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Twenty-Sixth National Immunization Conference: Meeting

The National Center for Prevention Services (NCPS) of the Centers for Disease Control (CDC) will convene a meeting of federal, state, and local public health officials, as well as representatives from the public and private sector, who are involved in the organization and implementation of immunization activities.

Name: Twenty-Sixth National Immunization Conference.

Times and Dates:

Registration, 1 p.m.–5 p.m., May 31, 1992, and 8 a.m.–12 noon and 1:30 p.m.–4 p.m., June 1, 1992
8 a.m.–6:30 p.m., June 1–2, 1992
8 a.m.–5 p.m., June 3, 1992
8 a.m.–5:15 p.m., June 4, 1992

8:30 a.m.–12:30 p.m., June 5, 1992

Place: Marriott Pavilion, One South Broadway, St. Louis, Missouri 63102, telephone 314/421–1776.

Status: Open to the public, limited only by available space.

Matters to be discussed: Current status of the epidemiology, prevention, and control of vaccine-preventable diseases with special emphasis on children less than 2 years of age.

Contact person for more information: Mr. Brent S. Shaw, Program Support Section, Division of Immunization, NCPS, CDC, 1600 Clifton Road, NE., Atlanta, Georgia 30333, Mailstop E52, telephone 404/639–2590.

Dated: May 19, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92–12148 Filed 5–21–92; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 92N–0177]

Orangeburg Serological Laboratories, Inc.; Revocation of U.S. License No. 842

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 842) and the product license issued to Orangeburg Serological Laboratories, Inc., for the manufacture of Source Plasma. In a letter dated September 13, 1991, the firm requested that its establishment and product licenses be revoked and thereby waived an opportunity for a hearing on the matter.

DATES: The revocation of the above establishment and product licenses became effective October 25, 1991.

FOR FURTHER INFORMATION CONTACT: Daniel Kearns, Center for Biologics Evaluation and Research (HFB–130), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301–295–8188.

SUPPLEMENTARY INFORMATION: Orangeburg Serological Laboratories, Inc., notified FDA that it ceased the production of Source Plasma, and returned its establishment license (U.S. License No. 842) and product license in a letter to FDA, dated September 13, 1991. At the time that the licenses were returned, the Center for Biologics Evaluation and Research had suspended the establishment and product licenses issued to Orangeburg Serological Laboratories, Inc., for the manufacture of Source Plasma (21 CFR 601.6). Orangeburg Serological Laboratories, Inc., was operating and doing business at 965 Summers Ave., Orangeburg, SC 29116. The current mailing address for Orangeburg Serological Laboratories, Inc., is P.O. Box 667, Orangeburg, SC 29116.

FDA conducted a scheduled inspection of Orangeburg Serological Laboratories, Inc., from August 8 through August 15, 1991, and a followup investigation from September 3 through September 5, 1991. The inspection and followup investigation revealed serious deviations from the applicable biologics regulations that constituted a danger to health. These deviations included, but were not limited to: (1) Failure to ensure that all donors receive a physical examination by a qualified licensed physician or physician substitute (21 CFR 640.63(b)); (2) failure to determine donor suitability by a qualified licensed physician or a qualified physician substitute (21 CFR 640.63(a)); (3) failure to maintain complete and accurate records of donor physical examinations (21 CFR 606.160(b)(1)(i)); and (4) failure to ensure that the hazards of the plasmapheresis procedure is explained to prospective donors (21 CFR 640.61).

During the investigation of Orangeburg Serological Laboratories, Inc., the agency documented that, contrary to a number of donor record files, either no physical examination took place or the physical examination was not conducted by the individual named in the donor record file. The omission of the physical examination represents a serious disregard for the donor suitability regulations and represents a potential danger to the health of recipients of products manufactured from the plasma. These deviations were viewed by the agency as serious and indicative of the firm's history of noncompliance with applicable regulations. The agency issued a letter to Orangeburg Serological Laboratories, Inc., dated September 18, 1991, detailing the violations noted above and suspending the firm's establishment and product licenses for the manufacture of Source Plasma.

Orangeburg Serological Laboratories, Inc., submitted its establishment and product licenses to FDA in a letter dated September 13, 1991. The firm's letter reached FDA after the agency's September 18, 1991, letter was mailed. Therefore, at the time that the agency had issued its letter, FDA was unaware that the firm had voluntarily requested that its licenses be revoked, thereby waiving its opportunity for a hearing.

FDA revoked the establishment and product licenses for Orangeburg Serological Laboratories, Inc., in a letter dated October 25, 1991. FDA has placed copies of the letters dated September 13, 1991, September 18, 1991, and October 25, 1991, on file under the docket number found in brackets in the heading of this document in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. These documents are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Accordingly, under 21 CFR 601.5, section 351 of the Public Health Service Act (42 U.S.C. 262), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.68, the establishment (U.S. License No. 842) and the product licenses issued to Orangeburg Serological Laboratories, Inc., for the manufacture of Source Plasma were revoked, effective October 25, 1991.

This notice is issued and published under 21 CFR 601.8 and the redelegation at 21 CFR 5.67.

Dated: May 14, 1992.

Gerald V. Quinnan, Jr.,

Acting Director, Center for Biologics Evaluation and Research.

[FR Doc. 92–12006 Filed 5–21–92; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N–92–1917; FR–2934–N–79]

Office of the Assistant Secretary for Community Planning and Development; Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the reguest for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Corps of Engineers: Bob Swieconek, Headquarters, Army Corps of Engineers, Attn: CERE–MM, room 4224, 20 Massachusetts Ave. NW, Washington, DC 20314–1000; (202) 272–1750; GSA: Ronald Rice, Federal Property Resources Services, GSA, 18th and F Streets NW, Washington, DC 20405; (202) 501–0067; Dept. of Veterans Affairs: Douglas Shinn, Management Analyst, Dept. of Veterans Affairs, room 414 Lafayette Bldg., 811 Vermont Ave. NW, Washington, DC 20420; (202) 233–8474; Dept. of Transportation: Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW, room 10319, Washington, DC 20590; (202) 366–4246; (These are not toll-free numbers).

Dated: May 15, 1992.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program—Federal Register Report for 05/22/92

Suitable/Available Properties

Buildings (by State)

Alabama

Bldg. TU–43
Millers Ferry Lock and Dam
Route 1, Box 102
Camden Co: Wilcox AL 36726– Landholding Agency: COE
Property Number: 319011549
Status: Unutilized
Comment: 1000 sq. ft.; 1 story frame residence; needs minor repair; most recent use—lock tender's dwelling.

Bldg. TU–22
Selden Lock and Dam
Route 1
Sawyerville Co: Hale AL 36776–
Landholding Agency: COE
Property Number: 319011551
Status: Unutilized
Comment: 1080 sq. ft.; 1 story frame residence; needs minor repair; most recent use—lock tender's dwelling.

Bldg. TU–21
Selden Lock and Dam
Route 1
Sawyerville Co: Hale AL 36776–
Landholding Agency: COE
Property Number: 319011552
Status: Unutilized
Comment: 1080 sq. ft.; 1 story frame residence; needs minor repair; most recent use—lock tender's dwelling.

Bldg. TU–23
Selden Lock and Dam
Route 1
Sawyerville Co: Hale AL 36776–
Landholding Agency: COE
Property Number: 319011553
Status: Unutilized
Comment: 1080 sq. ft.; 1 story frame residence; needs minor repair; most recent use—lock tender's dwelling.

Bldg. TU–24
Selden Lock and Dam
Route 1
Sawyerville Co: Hale AL 36776–
Landholding Agency: COE
Property Number: 319011554
Status: Unutilized
Comment: 1080 sq. ft.; 1 story frame residence; needs minor repair; most recent use—lock tender's dwelling.

Bldg. TU–15
Coffeeville Lock and Dam
Star Route Box 77
Blandon Springs Co: Choctaw AL 36919–
Landholding Agency: COE
Property Number: 319011556
Status: Unutilized
Comment: 1547 sq. ft.; 1 story frame residence; most recent use lock tender's dwelling.

California

Santa Fe Flood Control Basin
Irwindale Co: Los Angeles CA 91706–
Landholding Agency: COE
Property Number: 319011298
Status: Unutilized
Comment: 1400 sq. ft.; 1 story stucco; needs rehab; termite damage; secured area with alternate access.

Colorado

Kendall House, Bear Creek Lake
Hwy 8 or Morrison Rd.
Lakewood Co: Jefferson CO 80201–
Location: 2 mi. west of Kipling Intersection
Landholding Agency: COE
Property Number: 319140001
Status: Excess
Comment: 2400 sq. ft., 2 story with basement, needs rehab, presence of asbestos, off-site use only

Florida

Bldg. CN–3
1651 S. Franklin Lock Road
Alva Co: Lee FL 33920–
Landholding Agency: COE
Property Number: 319130006
Status: Unutilized
Comment: 1500 sq. ft., 1 story concrete block residence, off-site use only

Bldg. CN–43
Port Mayaca Lock and Spillway
Okeechobee Waterway
Port Mayaca Co: Martin FL 33438–
Location: Located approx. 9 mi n/o Canal Pt. at the intersection of US 441 and SR 76
Landholding Agency: COE
Property Number: 319210004
Status: Unutilized
Comment: 1700 sq. ft., 1 story concrete block/stucco structure, possible asbestos, off-site use only

Idaho

Bldg.
Albeni Falls Dam
U.S. Highway 2, Priest River
Bonner Co: Bonner ID 83856–
Location: 3½ miles west of Priest River.
Landholding Agency: COE
Property Number: 319110028
Status: Unutilized
Comment: 2989 sq. ft.; 3 story log construction with wood frame; offsite removal only; needs rehab.

Indiana

Bldg. 01, Monroe Lake
Monroe Cty. Rd. 37 North to Monroe Dam Rd.
Bloomington Co: Monroe IN 47401–8772
Landholding Agency: COE
Property Number: 319140002
Status: Unutilized
Comment: 1312 sq. ft., 1 story brick residence, off-site use only

Bldg. 02, Monroe Lake
Monroe Cty. Rd. 37 North to Monroe Dam Rd.
Bloomington Co: Monroe IN 47401–8772
Landholding Agency: COE
Property Number: 319140003
Status: Unutilized
Comment: 1312 sq. ft., 1 story brick residence, off-site use only

Kentucky

Green River Lock & Dam #3
Rochester Co: Butler KY 42273–
Location: SR 70 west from Morgantown, KY., approximately 7 miles to site.
Landholding Agency: COE
Property Number: 319010022
Status: Unutilized
Comment: 980 sq. ft.; 2 story wood frame; two story residence; potential utilities; needs major rehab.

Minnesota

Orwell Dam Reservoir
RFD #4, Box 100
Fergus Falls Co: Ottertail MN 56537–
Location: Off highway 210, 12 miles from Fergus Falls.
Landholding Agency: COE
Property Number: 319011039
Status: Unutilized
Comment: 1040 sq. ft.; frame house; possible asbestos; potential utilities.

New Mexico

Indian School of Prac. Nursing
1015 Indian School Road, NW
Albuquerque NM 87104–
Landholding Agency: GSA
Property Number: 549140004
Status: Excess
Comment: 21,635 sq. ft., 2 story plus basement, brick & masonry frame on 1.68 acres of improved land.
GSA Number: 7–F–NM–509B

North Carolina

Dwelling 1
USCG Coinjock Housing
Coinjock Co: Currituck NC 27923–
Landholding Agency: DOT
Property Number: 879120083
Status: Unutilized
Comment: One story wood residence, periodic flooding in garage and utility room occurs in heavy rainfall

Dwelling 2
USCG Coinjock Housing
Coinjock Co: Currituck NC 27923–
Landholding Agency: DOT
Property Number: 879120084
Status: Unutilized
Comment: One story wood residence, periodic flooding in garage and utility room occurs in heavy rainfall

Dwelling 3
USCG Coinjock Housing
Coinjock Co: Currituck NC 27923–
Landholding Agency: DOT
Property Number: 879120085
Status: Unutilized
Comment: One story wood residence, periodic flooding in garage and utility room occurs in heavy rainfall

USCG Station—Building
Oregon Inlet Coast Guard Station
Rodanthe Co: Dare NC 27968–
Landholding Agency: DOT
Property Number: 879120086
Status: Unutilized
Comment: 1207 sq. ft., two story wood frame, most recent use—office, storage, shops, communications, dining, etc.

USCG Station—Building
Oregon Inlet Coast Guard Station
Rodanthe Co: Dare NC 27968–
Landholding Agency: DOT
Property Number: 879120088
Status: Unutilized
Comment: 1521 sq. ft., two story lightweight steel frame, most recent use—office, shops, communications, storage, berthing, dining, etc.

USCG Station—Garage
Oregon Inlet Coast Guard Station
Rodanthe Co: Dare NC 27968–
Landholding Agency: DOT
Property Number: 879120089
Status: Unutilized
Comment: 1920 sq. ft., one story steel frame, most recent use—garage storage

USCG Station—Building
Oregon Inlet Coast Guard Station
Rodanthe Co: Dare NC 27968–
Landholding Agency: DOT
Property Number: 879120090
Status: Unutilized
Comment: 320 sq. ft., one story wood frame, most recent use—storage

North Dakota

Calhoon Radio Relay Tower Site
5 miles north and 1 mile west of Hannover, North Dakota Co: Oliver ND 58563–
Landholding Agency: GSA
Property Number: 549130015
Status: Excess
Comment: One story 12'×10'8" communication tower on concrete slab w/5.74 acres and 0.66 acre easement, potential utilities, needs rehab
GSA Number: 7–B–ND–489

Ohio

Barker Historic House
Willow Island Locks and Dam
Newport Co: Washington OH 45768–9801
Location: Located at lock site, downstream of lock and dam structure
Landholding Agency: COE
Property Number: 319120018
Status: Unutilized
Comment: 1600 sq. ft. bldg. with ½ acre of land, 2 story brick frame, needs rehab, on Natl Register of Historic Places, no utilities, off-site use only

Barker Historic House
Willow Island Locks and Dam
Newport Co: Washington OH 45768–9801
Location: Located at lock site, downstream of lock and dam structure
Landholding Agency: COE
Property Number: 319120018
Status: Unutilized
Comment: 1600 sq. ft. bldg. with ½ acre of land, 2 story brick frame, needs rehab, on Natl Register of Historic Places, no utilities, secured area with alternate access

Parcel 2
Lock and Dam #16
Washington Co: Washington OH
Location: On the Ohio River; 4 miles downstream from New MataMoras, Grandview Township
Landholding Agency: GSA
Property Number: 549110010
Status: Excess
Comment: Two story brick frame, subject to periodic flooding, possible asbestos on pipes, most recent use—office space
GSA Number: 2–GR(1)–OH–730

Parcel 1
Lock and Dam #16
Washington Co: Washington OH
Location: On the Ohio River, 4 miles downstream from New MataMorus, Grandview Township
Landholding Agency: GSA
Property Number: 549110011
Status: Excess
Comment: 2.5 story brick frame, subject to periodic flooding, possible asbestos on pipes, most recent use—storage
GSA Number: 2–GR(1)–OH–730

Pennsylvania

Mahoning Creek Reservoir
New Bethlehem Co: Armstrong PA 16242–
Landholding Agency: COE
Property Number: 319210008
Status: Unutilized
Comment: 1015 sq. ft., 2 story brick residence, off-site use only

South Carolina

Bldg. 1
J.S. Thurmond Dam and Reservoir
Clarks Hill Co: McCormick SC 29821–
Location: ½ mile east of Resource Managers Office
Landholding Agency: COE
Property Number: 319011544
Status: Excess
Comment: 1900 sq. ft.; 1 story masonry frame; possible asbestos; most recent use—storage

Bldg. 2
J.S. Thurmond Dam and Reservoir
Clarks Hill Co: McCormick SC 29821–
Location: ½ mile east of Resource Managers Office
Landholding Agency: COE
Property Number: 319011545
Status: Excess
Comment: 1900 sq. ft.; 1 story masonry frame; possible asbestos;
most recent use—storage

Bldg. 3
J.S. Thurmond Dam and Reservoir
Clarks Hill Co: McCormick SC 29821–
Location: ½ mile east of Resource Managers Office.
Landholding Agency: COE
Property Number: 319011546
Status: Excess
Comment: 1900 sq. ft.; 1 story masonry frame; possible asbestos; most recent use—storage.

Bldg. 4
J.S. Thurmond Dam and Reservoir
Clarks Hill Co: McCormick SC 29821–
Location: ½ mile east of Resource Managers Office.
Landholding Agency: COE
Property Number: 319011547
Status: Excess
Comment: 1900 sq. ft.; 1 story masonry frame; possible asbestos; most recent use—storage.

Bldg. 5
J.S. Thurmond Dam and Reservoir
Clarks Hill Co: McCormick SC
Location: ½ mile east of Resource Managers Office.
Landholding Agency: COE
Property Number: 319011548
Status: Excess
Comment: 1900 sq. ft.; 1 story masonry frame; possible asbestos; most recent use—storage.

Virginia

Housing
Rt. 637—Gwynnville Road
Gwynn Island Co: Mathews VA 23066–
Landholding Agency: DOT
Property Number: 879120082
Status: Unutilized
Comment: 929 sq. ft., one story residence

Wisconsin

Former Lockmaster's Dwelling
Cedar Locks
4527 East Wisconsin Road
Appleton Co: Outagamie WI 54911–
Landholding Agency: COE
Property Number: 319011524
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Appleton 4th Lock
905 South Lowe Street
Appleton Co: Outagamie WI 54911–
Landholding Agency: COE
Property Number: 319011525
Status: Unutilized
Comment: 908 sq. ft.; 2 story wood frame residence; needs rehab.

Former Lockmaster's Dwelling
Kaukauna 1st Lock
301 Canal Street
Kaukauna Co: Outagamie WI 54131–
Landholding Agency: COE
Property Number: 319011527
Status: Unutilized
Comment: 1290 sq. ft.; 2 story wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Appleton 1st Lock
905 South Oneida Street
Appleton Co: Outagamie WI 54911–
Landholding Agency: COE
Property Number: 319011531
Status: Unutilized
Comment: 1300 sq. ft.; potential utilities; 2 story wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Rapid Croche Lock
Lock Road
Wrightstown Co: Outagamie WI 54180–
Location: 3 miles southwest of intersection State Highway 96 and Canal Road.
Landholding Agency: COE
Property Number: 319011533
Status: Unutilized
Comment: 1952 sq. ft.; 2 story wood frame residence; potential utilities; needs rehab.

Former Lockmaster's Dwelling
Little KauKauna Lock
Little KauKauna
Lawrence Co: Brown WI 54130–
Location: 2 miles southeasterly from intersection of Lost Dauphin Road (County Trunk Highway "D") and River Street.
Landholding Agency: COE
Property Number: 319011535
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab.

Former Lockmaster's Dwelling
Little Chute, 2nd Lock
214 Mill Street
Little Chute Co: Outagamie WI 54140–
Landholding Agency: COE
Property Number: 319011536
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; potential utilities; needs rehab; secured area with alternate access.

Land (by State)

Arkansas

Parcel 01
DeGray Lake
Section 12
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010071
Status: Unutilized
Comment: 77.6 acres

Parcel 02
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010072
Status: Unutilized
Comment: 198.5 acres

Parcel 03
DeGray Lake
Section 18
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010073
Status: Unutilized
Comment: 50.46 acres

Parcel 04
DeGray Lake
Sections 24, 25, 30 and 31
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010074
Status: Unutilized
Comment: 236.37 acres

Parcel 05
DeGray Lake
Section 16
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010075
Status: Unutilized
Comment: 187.30 acres

Parcel 06
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010076
Status: Unutilized
Comment: 13.0 acres

Parcel 07
DeGray Lake
Section 34
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010077
Status: Unutilized
Comment: 0.27 acres

Parcel 08
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010078
Status: Unutilized
Comment: 14.6 acres

Parcel 09
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010079
Status: Unutilized
Comment: 6.60 acres

Parcel 10
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010080
Status: Unutilized
Comment: 4.5 acres

Parcel 11
DeGray Lake
Section 19
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010081
Status: Unutilized
Comment: 19.50 acres

Lake Greeson
Sections 7, 8 and 18
Murfreesboro Co: Pike AR 71958–9720
Landholding Agency: COE
Property Number: 319010083
Status: Unutilized
Comment: 46 acres

California

Lake Mendocino
1160 Lake Mendocino Drive
Ukiah Co: Mendocino CA 95482–9404
Landholding Agency: COE
Property Number: 319011015
Status: Unutilized
Comment: 20 acres; steep, dense brush; potential utilities.

New Hogan Lake
2713 Hogan Dam Road
Valley Springs Co: Calaveras CA 95252–0128
Landholding Agency: COE
Property Number: 319011017
Status: Unutilized
Comment: 3.08 acres; potential utilities; brush covered.

Receiver Site
Delano Relay Station
Route 1, Box 1350
Delano Co: Tulare CA 93215–
Location: 5 miles west of Pixley, 17 miles north of Delano.
Landholding Agency: GSA
Property Number: 549010044
Status: Excess
Comment: 81 acres, 1560 sq. ft. radio receiver bldg. on site, subject to grazing lease, potential utilities
GSA Number: 9–2–CA–1309

Colorado

Portion/Curecanti Substation
Cimarron Co: Montrose CO 81220–
Location: 2 miles east of Cimarron on Highway 50
Landholding Agency: GSA
Property Number: 419030009
Status: Excess
Comment: 36.39 acres, easement restrictions
GSA Number: 7–B–CO–624

Railroad Spur and Right-of-Way
Denver Federal Center
Lakewood Co: Jefferson CO 80215–
Landholding Agency: GSA
Property Number: 549120007
Status: Excess
Comment: 1.5 miles long (width varies 35 to 200 ft.), limited access, right-of-way restrictions
GSA Number: 7–G–CO–441–Q

Kansas

Parcel 1
El Dorado Lake
Sections 13, 24, and 18
(See County) Co: Butler KS
Landholding Agency: COE
Property Number: 319010064
Status: Unutilized
Comment: 61 acres; most recent use—recreation.

Kentucky

Tract 2025
Barkley Lake, Kentucky, and Tennessee
Cadiz Co: Trigg KY 42211–
Location: Adjoining the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010025
Status: Excess
Comment: 2.57 acres; rolling and wooded.

Tract 2709–10 and 2710–2
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Landholding Ageny: COE
Property Number: 319010026
Status: Excess
Comment: 2.00 acres; steep and wooded.

Tract 2708–1 and 2709–1
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010027
Status: Excess
Comment: 3.59 acres; rolling and wooded; no utilities.

Tract 2800
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 4½ miles in a southeasterly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010028
Status: Excess
Comment: 5.44 acres; steep and wooded.

Tract 2915
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 6½ miles west of Cadiz.
Landholding Agency: COE
Property Number: 319010029
Status: Excess
Comment: 5.76 acres; steep and wooded; no utilities.

Tract 2702
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 1 mile in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010031
Status: Excess
Comment: 4.90 acres; Wooded; no utilities.

Tract 4318
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: Trigg Co. adjoining the city of Canton, KY. on the waters of Hopson Creek.
Landholding Agency: COE
Property Number: 319010032
Status: Excess
Comment: 8.24 acres; steep and wooded.

Tract 4502
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 3½ miles in a southerly direction from Canton, KY.
Landholding Agency: COE
Property Number: 319010033
Status: Excess
Comment: 4.26 acres; steep and wooded.

Tract 4611
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 5 miles south of Canton, KY.
Landholding Agency: COE
Property Number: 319010034
Status: Excess
Comment: 10.51 acres; steep and Wooded; no utilities.

Tract 4619
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319010035
Status: Excess
Comment: 2.02 acres; steep and wooded; no utilities.

Tract 4817
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 6½ miles south of Canton, KY.
Landholding Agency: COE
Property Number: 319010036
Status: Excess
Comment: 1.75 acres; wooded.

Tract 1217
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: On the north side of the Illinois Central Railroad.
Landholding Agency: COE
Property Number: 319010042
Status: Excess
Comment: 5.80 acres; steep and wooded.

Tract 1906
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4 miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010044
Status: Excess
Comment: 25.86 acres; rolling steep and partially wooded; no utilities.

Tract 1907
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42038–
Location: On the waters of Pilfen Creek, 4 miles east of Eddyville, KY
Landholding Agency: COE
Property Number: 319010045
Status: Excess
Comment: 8.71 acres; rolling steep and wooded; no utilities.

Tract 2001 #1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010046
Status: Excess
Comment: 47.42 acres; steep and wooded; no utilities.

Tract 2001 #2
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4½ miles east of Eddyville, KY.
Landholding Agency: COE

Property Number: 319010047
Status: Excess
Comment: 8.64 acres; steep and wooded; no utilities.

Tract 2005
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 5½ miles east of Eddyville, KY.
Landholding Agency: COE
Property No: 319010048
Status: Excess
Comment: 4.62 acres; steep and wooded; no utilities.

Tract 2307
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 7½ miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010049
Status: Excess
Comment: 11.43 acres; steep; rolling and wooded; no utilities.

Tract 2403
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 7 miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010050
Status: Excess
Comment: 1.56 acres; steep and wooded; no utilities.

Tract 2504
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon Ky 42030–
Location 9 miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010051
Status: Excess
Comment: 24.46 acres; steep and wooded; no utilities.

Tract 214
Barkley, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: South of the Illinois Central Railroad, 1 mile east of the Cumberland River.
Landholding Agency: COE
Property Number: 319010052
Status: Excess
Comment: 5.5 acres; wooded; no utilities.

Tract 215
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 319010053
Status: Excess
Comment: 1.40 acres; wooded; no utilities.

Tract 241
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319010054
Status: Excess
Comment: 1.26 acres; steep and wooded; no utilities.

Tracts 306, 311, 315 and 325
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 2.5 miles southwest of Kuttawa, KY. on the waters of Cypress Creek.
Landholding Agency: COE
Property Number: 319010055
Status: Excess
Comment: 38.77 acres; steep and wooded; no utilities.

Tracts 2305, 2306, and 2400–1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 6½ miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010056
Status: Excess
Comment: 97.66 acres; steep rolling and wooded; no utilities.

Tract 500–2
Barkley Lake, Kentucky and Tennessee
Kuttawa Co: Lyon KY 42055–
Location: Situated on the waters of Poplar Creek, Approximately 1 mile southwest of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319010057
Status: Excess
Comment: 3.58 acres; hillside ridgeland and wooded; no utilities.

Tracts 5203 and 5204
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212–
Location: Village of Linton, KY state highway 1254.
Landholding Agency: COE
Property Number: 319010058
Status: Excess
Comment: 0.93 acres; rolling, Partially wooded; no utilities.

Tract 5240
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212–
Location: 1 mile northwest of Linton, KY.
Landholding Agency: COE
Property Number: 319010059
Status: Excess
Comment: 2.26 acres; steep and wooded; no utilities.

Tract 4628
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319011621
Status: Excess
Comment: 3.71 acres; steep and wooded; subject to utility easements.

Tract 4619–B
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319011622
Status: Excess
Comment: 1.73 acres; steep and wooded; subject to utility easements.

Tract 2403–B
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42038–
Location: 7 miles southeasterly from Eddyville, KY.
Landholding Agency: COE
Property Number: 319011623
Status: Unutilized
Comment: 0.70 acres, wooded; subject to utility easements.

Tract 241–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: South of Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319011624
Status: Excess
Comment: 11.16 acres; steep and wooded; subject to utility easements.

Tracts 212 and 237
Barkley Lake, Kentucky and Tennessee
Grand, Rivers Co: Lyon KY 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319011625
Status: Excess
Comment: 2.4 acres; steep and wooded; subject to utility easements.

Tract 215–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 319011626
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract 233
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 319011627
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract N–819
Dale Hollow Lake & Dam Project
Illwill Creek, Hwy 90
Hobart Co: Clinton KY 42601–
Landholding Agency: COE
Property Number: 319140009
Status: Underutilized
Comment: 91 acres, most recent use—hunting, subject to existing easements.

Louisiana

Wallace Lake Dam and Reservoir
Shreveport Co: Caddo LA 71103–
Landholding Agency: COE
Property Number: 319011009
Status: Unutilized
Comment: 11 acres; wildlife/forestry; no utilities.

Bayou Bodcau Dam and Reservoir
Haughton Co: Caddo LA 71037–9707
Location: 35 miles Northeast of Shreveport, LA.
Landholding Agency: COE
Property Number: 319011010
Status: Unutilized
Comment: 203 acres; wildlife/foresty; no utilities.

Minnesota

Parcel D
Pine River
Cross Lake Co: Crow Wing MN 56442–
Location: 3 miles from city of Cross Lake, between highways 6 and 371.

Landholding Agency: COE
Property Number: 319011038
Status: Excess
Comment: 17 acres; no utilities.

Tract 92
Sandy Lake
McGregor Co: Aitkins MN 55760–
Location: 4 miles west of highway 65, 15 miles from city of McGregor.
Landholding Agency: COE
Property Number: 319011040
Status: Excess
Comment: 4 acres; no utilities.

Tract 98
Leech Lake
Benedict Co: Hubbard MN 56641–
Location: 1 mile from city of Federal Dam, MN.
Landholding Agency: COE
Property Number: 319011041
Status: Excess
Comment: 7.3 acres; no utilities.

Mississippi

Parcel 7
Grenada Lake
Sections 22, 23, T24N
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011019
Status: Underutilized
Comment: 100 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 8
Grenada Lake
Section 20, T24N
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011020
Status: Underutilized
Comment: 30 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 9
Grenada Lake
Section 20, T24N, R7E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011021
Status: Underutilized
Comment: 23 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 10
Grenada Lake
Sections 16, 17, 18 T24N R8E
Grenada Co: Calhoun MS 38901–0903
Landholding Agency: COE
Property Number: 319011022
Status: Underutilized
Comment: 490 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 2
Grenada Lake
Section 20 and T23N, R5E
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 319011023
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 3
Grenada Lake
Section 4, T23N, R5E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011024
Status: Underutilized
Comment: 120 acres; no utilities; most recent use—wildlife and forestry management; (13.5 acres/agriculture lease).

Parcel 4
Grenada Lake
Sections 2 and 3, T23N, R5E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011025
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 5
Grenada Lake
Section 7, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011026
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management; (14 acres/agriculture lease).

Parcel 6
Grenada Lake
Section 9, T24N, R6E
Grenada Co: Yalobusha MS 38903–0903
Landholding Agency: COE
Property Number: 319011027
Status: Underutilized
Comment: 80 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 11
Grenada Lake
Section 20, T24N, R8E
Grenada Co: Calhoun MS 38901–0903
Landholding Agency: COE
Property Number: 319011028
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 12
Grenada Lake
Section 25, T24N, R7E
Grenada Co: Yalobusha MS 38390–0903
Landholding Agency: COE
Property Number: 319011029
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 13
Grenada Lake
Section 34, T24N, R7E
Grenada Co: Yalobusha MS 38903–0903
Landholding Agency: COE
Property Number: 319011030
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management; (11 acres/agriculture lease).

Parcel 14
Grenada Lake
Section 3, T23N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011031
Status: Underutilized
Comment: 15 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 15
Grenada Lake
Section 4, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011032
Status: Underutilized
Comment: 40 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 16
Grenada Lake
Section 9, T23N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011033
Status: Underutilized
Comment: 70 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 17
Grenada Lake
Section 17, T23N, R7E
Grenada Co: Grenada MS 28901–0903
Landholding Agency: COE
Property Number: 319011034
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 18
Grenada Lake
Section 22, T23N, R7E
Grenada Co: Grenada MS 28902–0903
Landholding Agency: COE
Property Number: 319011035
Status: Underutilized
Comment: 10 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 19
Grenada Lake
Section 9, T22N, R7E
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 319011036
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management.

Missouri

Harry S Truman Dam & Reservoir
Warsaw Co: Benton MO 65355–
Location: Triangular shaped parcel southwest of access road "B", part of Bledsoe Ferry Park Tract 150.
Landholding Agency: COE
Property Number: 319030014
Status: Underutilized
Comment: 1.7 acres; potential utilities.

North Carolina

USCG Station—Land
Oregon Inlet Coast Guard Station
Rodanthe Co: Dare NC 27968–
Landholding Agency: DOT
Property Number: 879120087
Status: Unutilized
Comment: 10 acres, potential utilities

North Dakota

Valley City Radio Tower Site
1 mile south and 1 mile east of Valley City, North Dakota
Valley City Co: Barnes ND 58072–
Landholding Agency: GSA
Property Number: 549130016
Status: Excess
Comment: 5.74 acres w/one story metal equipment storage bldg. 12'×10'8", potential utilities
GSA Number: 7–B–ND–490

Tappen Radio Relay Tower Site
2 miles east and 1.5 miles north of Tappen
Tappen Co: Kidder ND 58487–
Landholding Agency: GSA
Property Number: 549130017
Status: Excess
Comment: 5.74 fee acres and 0.59 acre easement w/100' guyed communication tower, potential utilities
GSA Number: 7–B–ND–491

Ohio

Hannibal Locks and Dam
Ohio River
P.O. Box 8
Hannibal Co: Monroe OH 43931–0008
Location: Adjacent to the new Martinsville Bridge.
Landholding Agency: COE
Property Number: 319010015
Status: Underutilized
Comment: 22 acres; river bank

Oklahoma

Parcel No. 18
Fort Gibson Lake
Section 12
Wagoner Co. Co: Wagoner OK
Landholding Agency: GSA
Property Number: 219013808
Status: Excess
Comment: 8.77 acres; subject to grazing lease; most recent use—recreation.
GSA Number: 7–D–OK–0422E–0004

Parcel 7
Fort Gibson Lake
Section 6
Co: Cherokee OK 74434
Landholding Agency: GSA
Property Number: 319010869
Status: Excess
Comment: 16.31 acres; potential utilities; most recent use—recreational and development.
GSA Number: 7–D–OK–0422E–0001

Parcel 14
Fort Gibson Lake
Section 20
Co: Cherokee OK 74434
Landholding Agency: GSA
Property Number: 319010870
Status: Excess
Comment: 52.09 acres; potential utilities; subject to haying/grazing leases; most recent use—recreational.
GSA Number: 7–D–OK–0422E–0002

Parcel 15
Fort Gibson Lake
Section 22
Co: Cherokee OK 74434
Landholding Agency: GSA
Property Number: 319010871
Status: Excess
Comment: 7.51 acres; potential utilities; most recent use—recreational.
GSA Number: 7–D–OK–0422E–0003

Parcel 28
Fort Gibson Lake
Section 35
Co: Mayes OK 74434
Landholding Agency: GSA
Property Number: 319010877
Status: Excess
Comment: 36.59 acres; potential utilities; most recent use—recreational.
GSA Number: 7–D–OK–0422E–0005

Parcel 75
Fort Gibson Lake
Section 16
Co: Mayes OK 74434
Landholding Agency: GSA
Property Number: 319010887
Status: Excess
Comment: 45 acres; potential utilities; subject to haying lease and flowage easement; most recent use—recreational.
GSA Number: 7–D–OK–0422E–0009

Parcel 88
Fort Gibson Lake
Section 7
Co: Wagoner OK 74434
Landholding Agency: GSA
Property Number: 319010899
Status: Excess
Comment: 14 acres; potential utilities; subject to grazing lease; most recent use—recreational.
GSA Number: 7–D–OK–0422E–0010

Parcel 89
Fort Gibson Lake
Section 7
Co: Wagoner OK 74434
Landholding Agency: GSA
Property Number: 319010900
Status: Excess
Comment: 16 acres; potential utilities; subject to grazing lease and flowage easement; most recent use—recreational.
GSA Number: 7–D–OK–0422E–0011

Parcel 95
Fort Gibson Lake
Section 33
Co: Wagoner OK 74434
Landholding Agency: GSA
Property Number: 319010906
Status: Excess
Comment: 8 acres; potential utilities; most recent use—recreational
GSA Number: 7–D–OK–0422E–0012

Pine Creek Lake
Section 27
(See County) Co: McCurtain OK
Landholding Agency: COE
Property Number: 319010923
Status: Unutilized
Comment: 3 acres; no utilities; subject to right of way for Oklahoma State Highway 3.

Parcel No. 43
Fort Gibson Lake
Section 11
Co: Mayes OK 74434
Landholding Agency: GSA
Property Number: 319011371
Status: Excess
Comment: 125 acres; potential utilities; portion subject to grazing lease and flowage easements.
GSA Number: 7–D–OK–0422E–0006

Parcel No. 49
Fort Gibson Lake
Section 15
Co: Mayes OK 74434
Landholding Agency: GSA
Property Number: 319011377
Status: Excess
Comment: 26.94 acres; potential utilities; portion subject to grazing lease and flowage easements.
GSA Number: 7–D–OK–0422E–0007

Parcel No. 61
Fort Gibson Lake
Section 13
Co: Mayes OK 74434
Landholding Agency: GSA
Property Number: 319011389
Status: Excess
Comment: 54 acres; potential utilities; subject to flowage easement; most recent use—recreation.
GSA Number: 7–D–OK–0422E–0008

Parcel No. 99
Fort Gibson Lake
Section 21
Co: Wagoner OK 74434
Landholding Agency: GSA
Property Number: 319011400
Status: Excess
Comment: 5 acres; small creek on land; most recent use—recreation.
GSA Number: 7–D–OK–0422E–0013

Parcel No. 102
Fort Gibson Lake
Section 33
Co: Wagoner OK 74434
Landholding Agency: GSA
Property Number: 319011403
Status: Excess
Comment: 7 acres; subject to grazing lease; most recent use—recreation.
GSA Number: 7–D–OK–0422E–0014

Parcel No. 105
Fort Gibson Lake
Section 14, 22 and 23
Co: Wagoner OK 74434
Landholding Agency: GSA
Property Number: 319011406
Status: Excess
Comment: 375 acres; portion is environmentally protected; most recent use—recreation.
GSA Number: 7–D–OK–0422E–0015

Oregon

Tonque Point Job Corps Center
(Portion of)
Astoria Co: Clotsop OR 97103–
Location: On the east by highway 30; on the west by city of Astoria's sewage treatment plant.
Landholding Agency: GSA
Property Number: 549010027
Status: Excess
Comment: 22.77 acres, land slopes, some soil erosion, potential utilities
GSA Number: 9–L–OR–508M

Pennsylvania

Mahoning Creek Lake
New Bethlehem Co: Armstrong PA 16242–9603
Location: Route 28 north to Belknap, Road #4
Landholding Agency: COE
Property Number: 319010018
Status: Excess
Comment: 2.58 acres; steep and densely wooded.

Tracts 610, 611, 612
Shenango River Lake
Sharpsville Co: Mercer PA 16150–
Location: I–79 North, I–80 West, Exit Sharon. R18 North 4 miles, left on R518, right on Mercer Avenue.
Landholding Agency: COE
Property Number: 319011001
Status: Excess
Comment: 24.09 acres; subject to flowage easement

Tracts L24, L26
Crooked Creek Lake
(See County) Co: Armstrong PA 03051–
Location: Left bank—55 miles downstream of dam.
Landholding Agency: COE
Property Number: 319011011
Status: Unutilized
Comment: 7.89 acres; potential for utilities.

Tennessee

Tract 6827
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 2½ miles west of Dover, TN.
Landholding Agency: COE
Property Number: 319010927
Status: Excess
Comment: .57 acres; subject to existing easements.

Tracts 6002–2 and 6010
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 3½ miles south of village of Tabaccoport.
Landholding Agency: COE
Property Number: 319010928
Status: Excess
Comment: 100.86 acres; subject to existing easements.

Tract 11516
Barkley Lake
Ashland City Co: Dickson TN 37015–
Location: ½ mile downstream from Cheatham Dam
Landholding Agency: COE
Property Number: 319010929
Status: Excess
Comment: 26.25 acres; subject to existing easements.

Tract 2319
J. Percy Priest Dam and Resorvoir
Murfreesboro Co: Rutherford TN 37130–
Location: West of Buckeye Bottom Road
Landholding Agency: COE
Property Number: 319010930
Status: Excess
Comment: 14.48 acres; subject to existing easements.

Tract 2227
J. Percy Priest Dam and Resorvoir
Murfreesboro Co: Rutherford TN 37130–
Location: Old Jefferson Pike
Landholding Agency: COE
Property Number: 319010931
Status: Excess
Comment: 2.27 acres; subject to existing easements.

Tract 2107
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: Across Fall Creek near Fall Creek camping area.
Landholding Agency: COE
Property Number: 319010932
Status: Excess
Comment: 14.85 acres; subject to existing easements.

Tracts 2601, 2602, 2603, 2604
Cordell Hull Lake and Dam Project
Doe Row Creek
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 56
Landholding Agency: COE
Property Number: 319010933
Status: Unutilized
Comment: 11 acres; subject to existing easements.

Tract 1911
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: East of Lamar Road
Landholding Agency: COE
Property Number: 319010934
Status: Excess
Comment: 15.31 acres; subject to existing easements.

Tract 2321
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: South of Old Jefferson Pike
Landholding Agency: COE
Property Number: 319010935
Status: Excess
Comment: 12 acres; subject to existing easements.

Tract 7206
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 2½ miles SE of Dover, TN.
Landholding Agency: COE
Property Number: 319010936
Status: Excess
Comment: 10.15 acres; subject to existing easements.

Tracts 8813, 8814
Barkley Lake
Cumberland Co: Stewart TN 37050–
Location: 1½ miles East of Cumberland City.
Landholding Agency: COE
Property Number: 319010937
Status: Excess
Comment: 96 acres; subject to existing easements.

Tract 8911
Barkley Lake
Cumberland City Co: Montgomery TN 37050–
Location: 4 miles east of Cumberland City.
Landholding Agency: COE
Property Number: 319010938
Status: Excess
Comment: 7.7 acres; subject to existing easements.

Tract 11503
Barkley Lake
Ashland City Co: Cheatham TN 37015–
Location: 2 miles downstream from Cheatham Dam.
Landholding Agency: COE
Property Number: 319010939
Status: Excess
Comment: 1.1 acres; subject to existing easements.

Tracts 11523, 11524
Barkley Lake
Ashland City Co: Cheatham TN 37015–
Location: 2½ miles downstream from Cheatham Dam.
Landholding Agency: COE
Property Number: 319010940
Status: Excess
Comment: 19.5 acres; subject to existing easements.

Tract 6410
Barkley Lake
Bumpus Mills Co: Stewart TN 37028–
Location: 4½ miles SW of Bumpus Mills.
Landholding Agency: COE
Property Number: 319010941
Status: Excess
Comment: 17 acres; subject to existing easements.

Tract 9707
Barkley Lake
Palmyer Co: Montgomery TN 37142–
Location: 3 miles NE of Palmyer, TN. Highway 149
Landholding Agency: COE
Property Number: 319010943
Status: Excess
Comment: 6.6 acres; subject to existing easements.

Tract 6949
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 1½ miles SE of Dover, TN.
Landholding Agency: COE
Property Number: 319010944
Status: Excess
Comment: 29.67 acres; subject to existing easements.

Tracts 6005 and 6017
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 3 miles south of Village of Tobaccoport.
Landholding Agency: COE
Property Number: 319011173
Status: Excess
Comment: 5 acres; subject to existing easements.

Tracts K–1191, K–1135
Old Hickory Lock and Dam
Hartsville Co: Trousdale TN 37074–
Landholding Agency: COE
Property Number: 319130007
Status: Underutilized
Comment: 92 acres (38 acres in floodway), most recent use—recreation.

Tract A–102
Dale Hollow Lake & Dam Project
Canoe Ridge, State Hwy 52
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 1931400006
Status: Underutilized
Comment: 351 acres, most recent use—hunting, subject to existing easements.

Tract A–120
Dale Hollow Lake & Dam Project
Swann Ridge, State Hwy No. 53
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 319140007
Status: Underutilized
Comment: 883 acres, most recent use—hunting, subject to existing easements.

Tracts A–20, A–21
Dale Hollow Lake & Dam Project
Red Oak Ridge, State Hwy No. 53
Celina Co: Clay TN 3855 1–
Landholding Agency: COE
Property Number: 319140008
Status: Underutilized
Comment: 821 acres, most recent use—recreation, subject to existing easements.

Tract D–185
Dale Hollow Lake & Dam Project
Ashburn Creek, Hwy No. 53
Livingston Co: & Clay TN 38570–
Landholding Agency: COE
Property Number: 319140010
Status: Underutilized

Comment: 883 acres, most recent use—hunting, subject to existing easements.
Cates Casting Field
Mississippi River and Tributaries Project
Hwy. 22
Tiptonville Co: Lake TN 38079–
Landholding Agency: GSA
Property Number: 319210010
Status: Excess
Comment: 57.0 acres, remote area, subject to periodic flooding GSA Number: 4–D–TN–633.
Loading Site
Cates Casting Field
Mississippi River and Tributaries Project
Tiptonville Co: Lake TN 38079–
Landholding Agency: GSA
Property Number: 319210011
Status: Excess
Comment: 8.3 acres, remote area, subject to periodic flooding.
GSA Number: 4–D–TN–634

Texas

Parcel #222
Lake Texoma
(See County) Co: Grayson TX
Location: C. Meyerheim survey A–829 J. Hamilton survey A–529
Landholding Agency: COE
Property Number: 319010421
Status: Excess
Comment: 52.80 acres; most recent use—recreation.
Parts of Tracts
B–143, B–144, B–146, B–148, B–179
Downstream of Lewisville Dam embankment
Lewisville Co: Denton TX 75067–
Location: Along State Hwy 121
Landholding Agency: COE
Property Number: 319140015
Status: Underutilized
Comment: approx. 92.81 acres in 3 parcels, most recent use—wildlife and low density recreation.
Test Tract—Formerly Jet Ind.
Burleson Road
Austin Co: Travis TX 78741–
Location: Approx. 7 mi NW of U.S. Hwy 183 and approx. 3.5 mi SE of Ben White Blvd.
Landholding Agency: GSA
Property Number: 549140008
Status: Excess
Comment: 75.81 acres, most recent use—one-mile asphalt test track for electric cars, approx. 15 acres in floodplain.
GSA Number: 7–B–TX–970

Washington

Land
Goodnoe Hills Substation & Wind Study Site
Co: Klickitat WA 98620–
Location: 15 mi SE of Goldendale on S side of St. Hwy. 122
Landholding Agency: GSA
Property Number: 549210005
Status: Excess
Comment: 123 acres w/ a 20' x 20' visitors center and a 6' x 6' substation bldg. which has secured areas.
GSA Number: 9–B–WA–1017

Wyoming

Wind Site A
Medicine Bow Co: Carbon WY 82329–
Location: 3 miles south and 2 miles west of Medicine Bow
Landholding Agency: GSA
Property Number: 419030010
Status: Excess
Comment: 46.75 acres, limitation-easement restrictions.

Suitable/Unavailable Properties

Buildings (by State)

Florida

Bldg. CN7
Ortona Lock Reservation, Okeechobee Waterway
Ortona Co: Glades FL 33471–
Location: Located off Highway 78 approximately 7 miles west of intersection with Highway 27.
Landholding Agency: COE
Property Number: 319010012
Status: Unutilized
Comment: 1468 sq. ft.; one floor wood frame; most recent use—residence; secured with alternate access.
Bldg. CN8
Ortona Lock Reservation, Okeechobee Waterway
Ortona Co: Glades FL 33471–
Location: Located off Highway 78 approximately 7 miles west of intersection with Highway 27.
Landholding Agency: COE
Property Number: 319010013
Status: Unutilized
Comment: 1468 sq. ft.; one floor wood frame; most recent use—residence; secured with alternate access.
Bldg. CN–19
Moore Haven Lock
Okeechobee Waterway
Moore Haven Co: Glades FL 33471–
Location: 1 mile east of highway 27
Landholding Agency: COE
Property Number: 319011688
Status: Unutilized
Comment: 1281 sq. ft.; 1 story frame residence; secured area with alternate access.
(P)Jacksonville Job Corps
236 W. 4th Street
Jacksonville Co: Duval FL 32206–
Landholding Agency: GSA
Property Number: 549140007
Status: Excess
Comment: 1250 sq. ft., 2 story residence, needs major rehab, subject to compliance with federal and local historic preservation laws.
GSA Number: 4–L–FL–967

Georgia

Lot 3
Lake Forrest Subdivision
Woodframe House
Hartwell Co: Hartwell GA
Landholding Agency: COE
Property Number: 319110026
Status: Excess
Comment: 896 sq. ft.; 2 story wood frame residence; off-site removal only.

Illinois

Bldg. 7
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency : COE
Property Number: 319010001
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.
Bldg. 6
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010002
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.
Bldg. 5
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010003
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.
Bldg. 4
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010004
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.
Bldg. 3
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010005
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame.
Bldg. 2
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010006
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.
Bldg. 1
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010007
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Indiana

Cagles Mill Lake
Cagles Mill Lake Dam
Poland Co: Putnam IN 47868–
Location: Midway between Indianapolis and Terre Haute, 5 miles west of Poland on SR 42.
Landholding Agency: COE
Property Number: 319011046

Status: Unutilized
Comment: 1066 sq. ft.; wood frame residence; minor rehab.

Dwelling #2
Cagles Mill Lake
Poland Co: Putnam IN 47868–
Location: 5 miles west of Polano on SR42
Landholding Agency: COE
Property Number: 319011686
Status: Unutilized
Comment: 872 sq. ft.; one story wood frame residence; fair condition.

Kentucky

Kentucky River Lock and Dam 3
Pleasureville Co: Henry KY 40057–
Location: SR 421 North from Frankfort, KY. to highway 561, right on 561 approximately 3 miles to site.
Landholding Agency: COE
Property Number: 319010060
Status: Unutilized
Comment: 897 sq. ft.; 2 story wood frame; structural deficiencies.

Kentucky River Lock and Dam 3
Pleasureville Co: Henry KY 40057–
Location: SR 421 north from Frankfort, KY. to highway 561, right on 561 approximately 3 miles to site.
Landholding Agency: COE
Property Number: 319010061
Status: Unutilized
Comment: 1060 sq. ft.; 2 story wood frame; needs rehab.

Bldg. 1
Kentucky River Lock and Dam
Carrolton Co: Carroll KY 41008–
Location:
Take I–71 to Carrolton, KY exit, go east on SR #227 to Highway 320, then left for about 1.5 miles to site.
Landholding Agency: COE
Property Number: 319011628
Status: Unutilized
Comment: 1530 sq. ft.; 2 story wood frame house; subject to periodic flooding; needs rehab.

Bldg. 2
Kentucky River Lock and Dam
Carrolton Co: Carroll KY 41008–
Location: Take I–71 to Carrolton, KY exit, go east on SR #227 to highway 320, then left for about 1.5 miles to site.
Landholding Agency: COE
Property Number: 319011629
Status: Unutilized
Comment: 1530 sq. ft.; 2 story wood frame house; subject to periodic flooding; needs rehab.

Maryland

Chesapeake Bay Hydraulic Model
Matapeake Co: Queen Annes MD 21666–
Landholding Agency: GSA
Property Number: 549040007
Status: Excess
Comment: 617280 sq. ft., 1 story metal bldg., ceiling height over 40 ft., lease restriction, Corps will maintain an antenna on property
GSA Number: 4–D–MD–578

Michigan

Bldg. 7348
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore Co: Emmet MI 497 11–
Landholding Agency: GSA
Property Number: 189010044
Status: Excess
Comment: 225 sq. ft., 1 story wood frame, needs rehab, most recent use—storage
GSA Number: 2–D–MI–751

Bldg. 7352
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore Co: Emmet MI 49711–
Landholding Agency: GSA
Property Number: 189010046
Status: Excess
Comment: 25 sq. ft., 1 story wood, most recent use—storage
GSA Number: 2–D–MI–751

Bldg. 7354
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore Co: Emmet MI 49711–
Landholding Agency: GSA
Property Number: 189010049
Status: Excess
Comment: 25 sq. ft., 1 story wood, most recent use—storage
GSA Number: 2–D–MI–751

Bldg. 7357
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bayshore Co: Emmet MI 49711–
Landholding Agency: GSA
Property Number: 189010051
Status: Excess
Comment: 1080 sq. ft., 1 story wood/frame/block, most recent use—hobby shop/recreation center
GSA Number: 2–D–MI–751

Bldg. 7358
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bayshore Co: Emmet MI 49711–
Landholding Agency: GSA
Property Number: 189010055
Status: Excess
Comment: 96 sq. ft., 1 story wood frame/concrete, most recent use—hazard storage
GSA Number: 2–D–MI–751

Bldg. 5043
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore Co: Emmet MI 49711–
Landholding Agency: GSA
Property Number: 189010065
Status: Excess
Comment: 694 sq. ft., 1 story concrete/block; 134 sq. ft., latrine with separate entrance
GSA Number: 2–D–MI–751

Minnesota

Former Yardmaster's Dwelling
Duluth Vessel Yard
900 Minnesota Avenue
Duluth Co: St. Louis MN 55802–
Landholding Agency: COE
Property Number: 319011042
Status: Unutilized
Comment: 1568 sq. ft.; 2 story wood frame residence; potential utilities; minor rehab.

Missouri

Bldg. 208–C
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120047
Status: Excess
Comment: 2210 sq. ft., most recent use—general storage, permitted to Dept of Labor
GSA Number: 7–D–MO–460–F

Bldg. 208–D
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120048
Status: Excess
Comment: 750 sq. ft., most recent use—general storage, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 222
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120049
Status: Excess
Comment: 16150 sq. ft., most recent use—medical/dental, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 223–A
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120050
Status: Excess
Comment: 77340 sq. ft., most recent use—dormitory, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 223–B
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120051
Status: Excess
Comment: 21380 sq. ft., most recent use—education bldg., permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 230
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120052
Status: Excess
Comment: 1840 sq. ft., most recent use—facility maintenance, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 230–A
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120053
Status: Excess
Comment: 1890 sq. ft., most recent use—facility maintenance, permitted to Dept of Labor
GSA Number: 7–D–MO–460–F

Bldg. 232–A–H
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120054
Status: Excess

Comment: 29280 sq. ft., most recent use—vocational training shop, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 234
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120055
Status: Excess
Comment: 44620 sq. ft., most recent use—admin/food service, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 237
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120056
Status: Excess
Comment: 300 sq. ft., most recent use—storage, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 244
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120057
Status: Excess
Comment: 7480 sq. ft., most recent use—weld/automotive shop, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 223C
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120058
Status: Excess
Comment: 123 sq. ft., permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 224B
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120059
Status: Excess
Comment: 100 sq. ft., permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 233A
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120060
Status: Excess
Comment: 837 sq. ft., permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 233F
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120061
Status: Excess
Comment: 837 sq. ft., permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

New Mexico

Bldg. 1 and 4
U.S. Navy Reserve Center
512 N 12th Street
Carlsbad Co: Eddy NM 88220–3046
Landholding Agency: GSA
Property Number: 779040001
Status: Excess
Comment: 2460 sq. ft., one story, frame/concrete block bldg., most recent use—office, presence of asbestos, and 152 sq. ft. metal storage shed on 1.03 acres.
GSA Number: 7–N–NM–0555

New York

Bldg. 1
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120008
Status: Excess
Comment: 31519 sq. ft., 7 story brick frame, presence of asbestos on pipe insulation, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 2
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120009
Status: Excess
Comment: 35537 sq. ft., 3 story bay brick frame, presence of asbestos on pipe insulation, most recent use-office, storage, auto shop, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 3
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120010
Status: Excess
Comment: 2700 sq. ft., 2 story brick frame, most recent use—office, scheduled to be vacated Oct. 1992.
GSA Number: 2–N–NY–797

Bldg. 4
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120011
Status: Excess
Comment: 60400 sq. ft., 1 story bay brick frame, most recent use—warehouse & rec. center, presence of asbestos on pipe insulation, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 5
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120012
Status: Excess
Comment: 3330 sq. ft., 2 story brick frame, most recent use—office, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 10
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120015
Status: Excess
Comment: 3100 sq. ft., 1 story, concrete & fiberglass frame, no utilities, most recent use—storage, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 306
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120016
Status: Excess
Comment: 8364 sq. ft., 1 story brick frame, presence of asbestos on pipe insulation, most recent use—storage, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 311
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120017
Status: Excess
Comment: 9720 sq. ft., 2 story brick frame, needs heating system repairs, needs rehab, presence of asbestos on pipe insulat., most recent use-ofc/storage, sched. to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 316
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120019
Status: Excess
Comment: 3952 sq. ft., 1 story brick frame, needs heating system repairs, potential utils., pres. of asbestos on pipe insula. most recent use-storage, sched. to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 353
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120020
Status: Excess
Comment: 670 sq. ft., 1 story brick frame, limited utilities, needs rehab, most recent use-storage, needs heating system repairs scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 670
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120021
Status: Excess
Comment: Concrete block gasoline station, no sanitary or heating facilities, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 672

Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120023
Status: Excess
Comment: 400 sq. ft., 1 story wood frame, most recent use—pool house, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R1
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120025
Status: Excess
Comment: 5274 sq. ft., 2 story single family housing, brick veneer/wood frame, presence of asbestos on pipe insulation, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R2
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120026
Status: Excess
Comment: 2400 sq. ft., 2 story single family hsg., cement asbestos/wood frame, needs heating system repairs, presence of asbestos on pipe insulation, sched. to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R3
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120027
Status: Excess
Comment: 2400 sq. ft., 2 story single family housing, cement abestos/wood frame, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R4
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120028
Status: Excess
Comment: 2517 sq. ft., 3 story four-family housing, brick asbestos/tile frame, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R5
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120029
Status: Excess
Comment: 2140 sq. ft., 1 story single family residence, brick frame, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R6
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120030
Status: Excess
Comment: 2140 sq. ft., 1 story single family residence, brick frame, needs rehab, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R7
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120031
Status: Excess
Comment: 2140 sq. ft., 1 story single family housing, brick frame, needs rehab, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R103
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120032
Status: Excess
Comment: 1650 sq. ft., 2 story brick frame, needs heating system repairs, limited utils., most recent use-storage, presence of asbestos on pipe ins., scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R103A
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120033
Status: Excess
Comment: 2620 sq. ft., 1 story concrete block frame, limited utils., most recent use-garage, presence of asbestos on pipe insulation, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R104
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120034
Status: Excess
Comment: 712 sq. ft., 2 story brick frame, most recent use—bachelor officers quarters, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R109
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120035
Status: Excess
Comment: 2 story brick frame, limited utilities, needs heating syst. repairs, most recent use—storage & garage, presence of asbestos on pipe insul., scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R426
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120036
Status: Excess
Comment: 2409 sq. ft., 1 story brick frame, needs heating system repairs, most recent use—storage, presence of asbestos on pipe ins., limited utils., scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R448
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120037
Status: Excess
Comment: 969 sq. ft., 1 story concrete & glass frame, limited utilities, needs major rehab, most recent use—greenhouse, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R475
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120039
Status: Excess
Comment: 1789 sq. ft., 1 story concrete block frame, most recent use—auto hobby shop, presence of asbestos on pipe insulation, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R476
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120040
Status: Excess
Comment: 36 sq. ft., 1 story metal frame, most recent use—security gate house, needs heating system repairs, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. RG
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120041
Status: Excess
Comment: 15490 sq. ft., 3 story brick & stucco frame, needs heating system repairs, needs major rehab, presence of asbestos on pipe ins., scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R8R9
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120042
Status: Excess
Comment: 2800 sq. ft., 2 story brick frame, most recent use—residential duplex, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R95
Naval Station
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 779010256
Status: Excess
Comment: 41800 sq. ft., 2 story stone frame, needs heating system repairs, pres. of asbestos on pipe ins., needs major rehab, NYS Historical Landmark, sched. to be vacated Oct. 1992

GSA Number: 2–N–NY–797
Bldg. RD
Naval Station
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 779010257
Status: Excess
Comment: 14120 sq. ft., 2 story brick and stone frame, needs heating system system repairs, pres. of asbestos on pipe ins., needs major rehab, sched. to be vacated Oct. 1992
GSA Number: 2–N–NY–797
Bldg. 305
Naval Station
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 779010258
Status: Excess
Comment: 18920 sq. ft., 2 story brick frame, limited util., needs major rehab, presence of asbestos on pipe insulation, needs heating system repairs, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797
Bldg. 144, VAECC
Linden Blvd. and 179th St.
St. Albans Co: Queens NY 11425–
Landholding Agency: VA
Property Number: 979210004
Status: Unutilized
Comment: 5215 sq. ft., 2 story wood frame residence, needs rehab, potential utilities
Bldg. 143, VAECC
Linden Blvd. and 179th St.
St. Albans Co: Queens NY 11425–
Landholding Agency: VA
Property Number: 979210005
Status: Unutilized
Comment: 5215 sq. ft., 2 story wood frame residence, needs rehab, potential utilities
Bldgs. 142/146, VAECC
Linden Blvd. and 179th St.
St. Albans Co: Queens NY 11425–
Landholding Agency: VA
Property Number: 979210006
Status: Unutilized
Comment: 5215 sq. ft., 2 story wood frame residence with 380 sq. ft. attached garage, needs rehab, potential utilities

Pennsylvania

Conemaugh River Lake
Road #1, Box 702
Saltsburg Co: Indiana PA 15681–
Landholding Agency: COE
Property Number: 319010019
Status: Unutilized
Comment: 2642 sq. ft.; one unit of brick/frame duplex; most recent use—residence.
Bldg.—Cowanesque Lake
Tioga Co: Tioga PA 16946–
Location: Located on north side of Bliss Road across from Cowanesque Dam Office
Landholding Agency: COE
Property Number: 319120003
Status: Excess
Comment: 2640 sq. ft., 1 story wood frame, most recent use—storage, off-site removal only

Tennessee

Transient Quarters
Dale Hollow Lake and Dam Project
Dale Hollow Resource Mgr Office, Rt 1, Box 64
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 319140005
Status: Unutilized
Comment: 1400 sq. ft., concrete block, possible security restrictions, subject to existing easements
Federal Building
216 North Jackson Street
Athens Co: McMinn TN 373303–
Landholding Agency: GSA
Property Number: 549210003
Status: Excess
Comment: 2069 sq. ft., 3 story brick and concrete frame, presence of asbestos on pipes and air ducts in mechanical areas, most recent use—offices.
GSA Number: 4–G–TN–632

Texas

Bldg. 6–B
Brazos River Floodgates
Freeport Co: Brazoria TX 77541–
Location: 5 miles south of Freeport.
Landholding Agency: COE
Property Number: 319110030
Status: Unutilized
Comment: 1100 sq. ft.; 2 story wood frame; needs major rehab; possible asbestos; off-site use only.
Bldg. 6–C
Colorado River Locks
109 Colorado River Locks
Matagorda Co: Matagorda TX 77547–
Landholding Agency: COE
Property Number: 319110031
Status: Unutilized
Comment: 1100 sq. ft.; 1 story wood frame; needs rehab; off-site use only.
Peary Place #1
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5000
Landholding Agency: GSA
Property Number: 779030002
Status: Excess
Comment: 9160 sq. ft., 1 story, possible asbestos, most recent use—remote transmitter site.
GSA Number: 7–N–PX–402–V
Brownsville Urban System
(Grantee)
700 South Iowa Avenue
Brownsville Co: Cameron TX 78520–
Landholding Agency: DOT
Property Number: 879010003
Status: Unutilized
Comment: 3500 sq. ft., 1 story concrete block, (2nd floor of Admin. Bldg.) on 10750 sq. ft. land, contains underground diesel fuel tanks

Utah

100 KW Solar Photovoltaic Sys.
Natl. Bridges National Monument
P.O. Box 1
Lake Powell Co: San Juan UT 84533–
Landholding Agency: GSA
Property Number: 419140001
Status: Excess
Comment: Solar panels, current use—generate electrical power.
GSA Number: 7–B–UT–0506

Virginia

Tract NH 3331–E
John H. Kerr Reservoir
Woodframe House
South Boston Co: Halifax VA
Landholding Agency: COE
Property Number: 319110027
Status: Excess
Comment: 1040 sq. ft.; 1 story wood frame residence; off-site removal only.

Washington

Mica Peak Radio Station
Approx. 15 miles SE of Spokane
Spokane Co: Spokane WA 99210–
Landholding Agency: GSA
Property Number: 549120065
Status: Excess
Comment: 25×48 ft. on 0.4 acres 1 story concrete block, most recent use—radio communications, only accessible from late June to October
GSA Number: 9–B–WA–895

Wisconsin

Former Lockmaster's Dwelling
DePere Lock
100 James Street
De Pere Co: Brown WI 54115–
Landholding Agency: COE
Property Number: 319011526
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab; secured area with alternate access.

Land (by State)

Alaska

Portion, Dyke Range
Old Richardson Hwy.
North Pole Co: Fairbanks AK 00805–
Landholding Agency: GSA
Property Number: 549130018
Status: Excess
Comment: 0.73 acre—75% of land encroached upon by private residence
GSA Number: 9–D–AK–727

California

Receiver Site
Dixon Relay Station
7514 Radio Station Road
Dixon CA 95620–9653
Location: Approximately .16 miles southeast of Dixon, CA.
Landholding Agency: GSA
Property Number: 549010042
Status: Excess
Comment: 80 acres, 1560 sq. ft. radio receiver bldg. on site, subject to grazing lease, limited utilities.
GSA Number: 9–2–CA–1162–A
Remote Transmitter
Section 35
Red Bluff Co: Tehema CA 96080–
Landholding Agency: DOT
Property Number: 879010010
Status: Unutilized
Comment: 4 acres, paved road, current use—storage

Florida

Parcel A & B
U.S. Coast Guard Light Station
Lots 1, 8 & 11, Section 31
Jupiter Inlet Co: Palm Beach FL 33420–
Location: Township 40 south, range 43 east.
Landholding Agency: DOT

Property Number: 879010009
Status: Unutilized
Comment: 56.61 acres, area is uncleared, vegetation growth is heavy, no utilities

Georgia

E. O. Tract A
J. Strom Thurmond Dam and Reservoir
(See County) Co: Columbia GA
Location: 3 miles east of GA 104 and Ridge Road intersection.
Landholding Agency: COE
Property Number: 319011516
Status: Unutilized
Comment: 17 acres; potential utilities; most recent use—forest and wildlife reserve.

E. O. Tract B
J. Strom Thurmond Dam and Reservoir
(See County) Co: Columbia GA
Location: 3 miles east of GA 104 and Ridge Road intersection.
Landholding Agency: COE
Property Number: 319011517
Status: Unutilized
Comment: 88 acres; potential utilities; most recent use—forest and wildlife reserve.

E. O. Tract F
J. Strom Thurmond Dam and Reservoir
(See County) Co: Columbia GA
Location: Approximately 2 miles east of GA 104 and Keg Creek Road intersection.
Landholding Agency: COE
Property Number: 319011519
Status: Unutilized
Comment: 29 acres; potential utilities; most recent use—forest and wildlife reserve.

E. O. Tract E
J. Strom Thurmond Dam and Reservoir
(See County) Co: Columbia GA
Location: Approximately 1½ miles east of GA 104 and Keg Creek Road Intersection.
Landholding Agency: COE
Property Number: 319011520
Status: Unutilized
Comment: 12 acres; potential utilities; most recent use—forest reserve and wildlife management.

E. O. Tract G
J. Strom Thurmond Dam and Reservoir
(See County) Co: Columbia GA
Location: 4 miles east of GA 104 and Ridge Road Intersection.
Landholding Agency: COE
Property Number: 319011521
Status: Unutilized
Comment: 8 acres; potential utilities; most recent use—forest and wildlife reserve.

E. O. Tract I
J. Strom Thurmond Dam and Reservoir
(See County) Co: Columbia GA
Location: 4 miles east of GA 104 and Ridge Road intersection.
Landholding Agency: COE
Property Number: 319011523
Status: Unutilized
Comment: 8 acres; potential utilities; most recent use—forest and wildlife reserve.

Lake Sidney Lanier
Riverside Dr.
Gainesville Co: Hall GA
Landholding Agency: GSA
Property Number: 549140003
Status: Excess
Comment: 6.22 acres, leased to City for construction of an alum sludge dewatering and wash water handling facility
GSA Number: 4–D–GA–731

Guam

Former Navy Seismograph Site
Nimitz Hill
Asan GU
Landholding Agency: GSA
Property Number: 549210017
Status: Excess
Comment: 1.5 acres, historic property, subject to easements.
GSA Number: 9–N–GU–415C

190 acres—Submerged Lands
Located offshore of Asan Point
Asan GU
Landholding Agency: GSA
Property Number: 549210018
Status: Excess
Comment: 190 acres, most recent use—naval waterway
GSA Number: 9–N–GU–436

42 acres—Submerged Land
In Agat Bay
Located offshore of Apaca Point
Agat GU
Landholding Agency: GSA
Property Number: 549210019
Status: Excess
Comment: 42 acres, most recent use—naval waterway
GSA Number: 9–N–GU–426B

Kansas

Paradise Point
Public Use Area (Perry Lake)
Perry Co: Jefferson KS 66073–
Location: Upper-east reaches of the Perry Lake project, approximately 8½ miles west of Oskaloosa, 8½ miles southeast of Vally Falls.
Landholding Agency: COE
Property Number: 319011540
Status: Underutilized
Comment: 479 acres; portion in floodway/reservoir flood control area; remote location.

Grasshopper Point
Public Use Area (Perry Lake)
Perry Co: Jefferson KS 66073–
Location: Along the west shore of Perry Lake, 5 miles east (gravel road) from Meridan, 5 miles south from Ozawkie.
Landholding Agency: COE
Property Number: 319011541
Status: Underutilized
Comment: 174 acres; portion in floodway/reservoir flood control area; remote location.

Sunset Ridge
Public Use Area (Perry Lake)
Perry Co: Jefferson KS 66073–
Location: Upper-west reaches of the Perry Lake project, approximately 8 miles south from Vally Falls.
Landholding Agency: COE
Property Number: 319011542
Status: Underutilized
Comment: 279 acres; portion in floodway/reservoir flood control area; remote location.

Dragoon Access Area
Pomona Lake
Vassar Co: Osage KS 66543–
Location: 5Upper reaches of north shore of the Pomona Lake, approximately 10.5 miles north and east of Lundon.
Landholding Agency: COE
Property Number: 319011543
Status: Underutilized
Comment: 110 acres; portion in floodway/reservoir flood control area.

Titan II Missile Site 8
McConnell AFB
4.8miles east of Winfield on State Rd. 15
Winfield Co: Cowley KS 67156–
Landholding Agency: GSA
Property Number: 549130010
Status: Excess
Comment: Approx. 25.44 acres, most recent use—missile site complex
GSA Number: 7–D–KS–477–N

McConnell AF Facility S–15
McConnell Air Force Base
Co: Kingman KS 67201–
Location: Two miles south of Rago on State road 14
Landholding Agency: GSA
Property Number: 549130013
Status: Excess
Comment: 16.69 fee acres and 2.73 paved easement, potential utilities
GSA Number: 7–D–KS–477–P

Titan II Missile Site No. 9
McConnell Air Force Base
Co: Sumner KS 67201–
Landholding Agency: GSA
Property Number: 549130014
Status: Excess
Comment: 6.43 fee acres and 2.96 acres easement, subject to utility rights by third parties, most recent use—missile site
GSA Number: 7–D–KS–0477–0

Titan II Missile S–17
McConnell Air Force Base
Co: Kingman KS 67068–
Location: 4 miles east on US Hwy 54 and 3 miles north on FAS 361
Landholding Agency: GSA
Property Number: 549210001
Status: Excess
Comment: 10.26 acres fee and 2/43 acres easement (paved), potential utilities, PCB's underground on 1 acre, most recent use—missile site.
GSA Number: 7–D–KS–477–Q

Titan II Missile S–12
McConnell Air Force Base
Co: Sumner KS 67221–
Location: 5 miles south of Conway Springs, KS on State Hwy 49
Landholding Agency: GSA
Property Number: 549210002
Status: Excess
Comment: 16.75 acres fee and 3.79 acres easement (paved), potential utilities, PCB's underground on 1 acre, most recent use—missile site.
GSA Number: 7–D–KS–477–R

Massachusetts

Por. of Former Navy Ammo. Plt.
Fort Hill Street
Hingham Co: Plymouth MA 02043–
Location: Across from Bus Company Parking Garage.
Landholding Agency: GSA
Property Number: 549030017
Status: Excess
Comment: 1.129 acres, gravel pavement, most recent use—parking lot
GSA Number: 2–GR–MA–591B

Michigan

Facility 93359
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore Co: Emmet MI 49711–
Landholding Agency: GSA
Property Number: 189010058
Status: Excess
Comment: 2.52 acres, utilities and sanitary facilities
GSA Number: 2–D–MI–751

Facility 93361
Bay shore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore Co: Emmet MI 49711–
Landholding Agency: GSA
Property Number: 189010061
Status: Excess
Comment: 0.14 acres, access gained through Air Force controlled property
GSA Number: 2–D–MI–751

New York

Land 671
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120022
Status: Excess
Comment: 50 ft. by 25 ft., most recent use—swimming pool concrete frame, scheduled to be vacated Oct. 1992.
GSA Number: 2–N–NY–797

Playing Field—675
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120024
Status: Excess
Comment: 67974 sq. ft., limited utilities, most recent use—baseball field, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Land R464/R474
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120043
Status: Excess
Comment: 90'×45' each, concrete over gravel, most recent use—tennis courts, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Oklahoma

45 acre parcel, Sardis Lake
SE¼ NE¼ Section 4, T 2 N, R 18 E
Co: Pushmataha OK 74521–
Landholding Agency: COE
Property Number: 319140004
Status: Excess
Comment: approx. 45 acres, most recent use—fish and wildlife conservation

Parcel No. 54/GSA No. 6
Lake Texoma
Co: Marshall OK 73439–
Location: Section 17, 3½ miles north of Little City, OK
Landholding Agency: GSA
Property Number: 549210007
Status: Excess
Comment: 5.05 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 63/GSA No. 8
Lake Texoma
Co: Marshall OK 73439–
Location: Section 19, 3½ miles southwest of Cumberland, OK
Landholding Agency: GSA
Property Number: 549210008
Status: Excess
Comment: 40.32 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 66/GSA No. 9
Lake Texoma
Co: Marshall OK 73439–
Location: Sections 12 and 13, 2½ miles southwest of Cumberland, OK
Landholding Agency: GSA
Property Number: 549210009
Status: Excess
Comment: 14.05 acres, potential utilities, most recent use—low density recreation/natural gas well and pipelines.
GSA Number: 7–D–OK–0507–H

Parcel No. 78/GSA No. 11
Lake Texoma
Co: Marshall OK 73439–
Location: Section 24, 1 mile east of McBride, OK
Landholding Agency: GSA
Property Number: 549210010
Status: Excess
Comment: 30.28 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 86/GSA No. 12
Lake Texoma
Co: Marshall OK 73439–
Location: Section 1824, 3½ miles south of Kingston, OK
Landholding Agency: GSA
Property Number: 549210011
Status: Excess
Comment: 13 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 125/GSA No. 14
Lake Texoma
Co: Marshall OK 73439–
Location: Section 17
Landholding Agency: GSA
Property Number: 549210012
Status: Excess
Comment: 11.24 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 150/GSA No. 15
Lake Texoma Co: Marshall OK 73439–
Location: Section 6
Landholding Agency: GSA
Property Number: 549210013
Status: Excess
Comment: 12.64 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 164/GSA No. 16
Lake Texoma Co: Love OK 73441–
Location: Section 3
Landholding Agency: GSA
Property Number: 549210014
Status: Excess
Comment: 40.20 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 165/GSA No. 17
Lake Texoma Co: Love OK 73441–
Location: Section 3
Landholding Agency: GSA
Property Number: 549210015
Status: Excess
Comment: 32.62 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 166/GSA No. 18
Lake Texoma Co: Love OK 73441–
Location: Section 10
Landholding Agency: GSA
Property Number: 549210016
Status: Excess
Comment: 62.61 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Oregon

83.0 Acre Portion
Tongue Point Job Corps Center
Astoria Co: Clatsop OR 97103–
Landholding Agency: GSA
Property Number: 549210006
Status: Excess
Comment: 83 acres, bounded on 3-sides by the Columbia River, mostly wooded and steeply sloped, environmentally protected.
GSA Number: 9–L–OR–508L

Pennsylvania

East Branch Clarion River Lake
Wilcox Co: Elk PA
Location: Free camping area on the right bank off entrance roadway.
Landholding Agency: COE
Property Number: 319011012
Status: Underutilized
Comment: 1 acre; most recent use—free campground.

South Carolina

E.O. Tract J
J. Strom Thurmond Dam and Reservoir
(See County) Co: McCormick SC
Location: 4 miles southwest of Plum Branch SC on road to Clarks Mill Marina.
Landholding Agency: COE
Property Number: 319011514
Status: Unutilized
Comment: 57 acres; potential utilities; most recent use—forest and wildlife reserve.

E.O. Tract C
J. Strom Thurmond Dam and Reservoir
(See County) Co: McCormick SC
Location: Approximately 1 mile north of US 221 and SC 28 intersection.
Landholding Agency: COE
Property Number: 319011515
Status: Unutilized
Comment: 70 acres; potential utilities; most recent use—forest and wildlife reserve.

Georgetown Wayside Park
U.S. 701
Approx. 9–10 mi north of Georgetown
Georgetown Co: Georgetown SC 29440–
Landholding Agency: GSA
Property Number: 549130011
Status: Excess
Comment: 31.74 acres, approx. 1150 ft. of highway frontage through the property.
GSA Number: 4–GR–SC–521

South Dakota

Por. of Pactola Dist. Ad. Site
803 Soo San Drive

Rapid City Co: Pennington SD 57702–
Landholding Agency: GSA
Property Number: 159130003
Status: Excess
Comment: 5.58 acres, potential utilities.
GSA Number: 7–A–SD–511

Texas

Part of Tract A–10
(See County) Co: Tarrant TX
Location: Off FM 2499 at north end of dam embankment
Landholding Agency: COE
Property Number: 319010390
Status: Excess
Comment: 0.29 acres; most recent use—parking lot.

Part of Tract 340
Joe Pool Lake
(See County) Co: Dallas TX
Landholding Agency: COE
Property Number: 319010400
Status: Unutilized
Comment: 1 acre; future use—recreation.

Virginia

St. Helena Annex
(former portion)
Treadwell and South Main Streets
Norfolk Co: Norfolk VA 23523–
Landholding Agency: GSA
Property Number: 549120005
Status: Excess
Comment: 7.69 acres, most recent use—paved parking lot.
GSA Number: 4–GR(2)-VA525AA

Washington

Seaplane Base
Naval Air Station—Whidbey Island
Oak Harbor Co: Island WA 98278–
Landholding Agency: GSA
Property Number: 549130007
Status: Excess
Comment: 5.472 acres, most recent use—roadway and outside boat storage, easement restrictions.
GSA Number: 9–N–WA–585M

Suitable/To Be Excessed

Buildings (by State)

Kentucky

Bldg.—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 319130004
Status: Unutilized
Comment: 64 sq. ft., 1 story wood frame, most recent use—utility, off-site use only.

Michigan

Former C.G. Lightkeeper Sta.
Little Rapids Channel Project
St. Marys River
Sault Ste. Marie Co: Chippewa MI 49783–
Location: 3 miles east of downtown Sault Ste. Marie.
Landholding Agency: COE
Property Number: 319011573
Status: Excess
Comment: 1411 sq. ft.; 2 story; wood frame on .62 acres; needs rehab; secured area with alternate access.

New York

Former Damtender's House
East Sidney Lake
Franklin Co: Delaware NY 13775–
Location: Located on the corner of Triverfold Rd. and County Rd. 44
Landholding Agency: COE
Property Number: 319210007
Status: Excess
Comment: 1605 sq. ft., 2 story wood frame residence with 1 acre of land, asbestos shingle siding.

South Carolina

Bldg. #1 U.S. Coast Guard
Folly Island Loran Station
Folly Island Co: Charleston SC 29401–
Landholding Agency: DOT
Property Number: 879120096
Status: Unutilized
Comment: 2,340 sq. ft., 1 story concrete block, most recent use—communications station.

Bldg. #2 U.S. Coast Guard
Folly Island Loran Station
Folly Island Co: Charleston SC 29401–
Landholding Agency: DOT
Property Number: 879120097
Status: Unutilized
Comment: 2,050 sq. ft., 1 story concrete block, most recent use—communications station.

Land (by State)

Indiana

Cecil M. Harden Lake Project
Rockville Co: Parke IN 47872–
Location: Route 57 at intersection w/county road 910E.
Landholding Agency: COE
Property Number: 319011689
Status: Excess
Comment: 2.68 acres; narrow triangular shaped area of land.

Tracts 903, 905, 905–C
Patoka Lake Project
Taswell Co: Crawford IN 47527–
Location: From French Lick, IN, take SR 145S for 10 miles, to intersection with SR 164, property lies east and adjacent to highway 145.
Landholding Agency: COE
Property Number: 319030003
Status: Excess
Comment: 22.35 acres; limited utilities.

Tracts 142–A, 143
Patoka Lake Project
Dubois Co: Dubois IN 47527–9661
Location: From French Lick, IN take SR 145 S. for 20 miles to SR 164, go west on 164 for 7 miles to Celestine Road, go North on Celestine for 5 miles to Dubois Co. Road 475, then right for ¼ mile to property.
Landholding Agency: COE
Property Number: 319030004
Status: Excess
Comment: 21.30 acres; limited utilities; subject to periodic flooding.

Tract 142–B
Patoka Lake Project
Dubois Co: Dubois IN 47527–9661
Location: From French Lick, IN take SR 145 S for 20 miles to SR 164, go west on 164 for 7 miles to Celestine Road, go North on Celestine for 5 miles to Dubois Co. Road 475, then right for ¼ miles to property.
Landholding Agency: COE
Property Number: 319030005
Status: Excess
Comment: 4.74 acres; limited utilities; subject to periodic flooding.

Tract 601
Patoka Lake Project
French Lick Co: Orange IN 47527–
Location: IN. State Highway 145 south to Jordan Branch Road, Property abuts east right-of-way for Jordan Road.
Landholding Agency: COE
Property Number: 319030006
Status: Excess
Comment: 0.41 acre; limited utilities.

Kansas

Parcel #1
Fall River Lake
Section 26
(See County) Co: Greenwood KS
Landholding Agency: COE
Property Number: 319010065
Status: Unutilized
Comment: 155 acres; most recent use—recreation and leased cottage sites.

Parcel #2
Fall River Lake
Section 25 and 26
(See County) Co: Greenwood KS
Landholding Agency: COE
Property Number: 319010066
Status: Excess
Comment: 38.62 acres; most recent use—recreation.

Parcel #3
Fall River Lake
Section 26
(See County) Co: Greenwood KS
Landholding Agency: COE
Property Number: 319010067
Status: Excess
Comment: 22.44 acres; most recent use—recreation.

Parcel No. 2, El Dorado Lake
Approx. 1 mi east of the town of El Dorado
Co: Butler KS
Landholding Agency: COE
Property Number: 319210005
Status: Unutilized
Comment: 11 acres, part of a relocated railroad bed, rural area.

Kentucky

Tract B—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 319130002
Status: Unutilized
Comment: 10 acres, most recent use—recreational, possible periodic flooding.

Tract A—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 319130003
Status: Unutilized
Comment: 8 acres, most recent use—recreational, possible periodic flooding.

Tract C—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 319130005
Status: Unutilized
Comment: 4 acres, most recent use—recreational, possible periodic flooding.

Massachusetts

Buffumville Dam
Flood Control Project
Gale Road
Carlton Co: Worcester MA 01540–0155
Location: Portion of tracts B–200, B–248, B–251, B–204, B–247, B–200 and B–256
Landholding Agency: COE
Property Number: 319010016
Status: Excess
Comment: 1.45 acres.

Conant Brook Dam
Flood Control Dam
Wales Road
Monson Co: Hampden MA 01057–
Location: Portion of Tract 211
Landholding Agency: COE
Property Number: 319010017
Status: Excess
Comment: 5.27 acres.

Hodges Village
Dam Flood Control Project
Old Howarth Road
Oxford Co: Worcester MA 01540–0500
Location: Portion of Tract A–108, See Project Manager at Hodges Village Dam, Oxford, MA (508) 987–2600.
Landholding Agency: COE
Property Number: 319011006
Status: Excess
Comment: 6.02 acres; 3 acres paved road, subject to utility easement.

Michigan

U.S. Coast Guard—Air Station
Traverse City Co: Grand Traverse MI 49684–
Landholding Agency: DOT
Property Number: 879120099
Status: Underutilized
Comment: 21.7 acres, most recent use—helo landings.

Oklahoma

Parcel No. 100
Lake Texoma
Section 25, T7S, R5E
Enos Co: Marshall OK
Location: 1 mile northeast of Enos
Landholding Agency: COE
Property Number: 319010440
Status: Unutilized
Comment: 11.77 acres; most recent use—recreation.

Parcel No. 7
Kaw Lake
Section 27
(See County) Co: Kay OK
Landholding Agency: COE
Property Number: 319010842
Status: Excess
Comment: 21 acres; potential utilities; most recent use—recreation.

Parcel No. 3
Sardis Lake
Section 21
(See County) Co: Latimer OK
Landholding Agency: COE
Property Number: 319010843
Status: Excess
Comment: 2.5 acres; potential utilities; most recent use—wildlife management.

Parcel No. 4
Sardis Lake
Section 21
(See County) Co: Latimer OK
Landholding Agency: COE
Property Number: 319010844
Status: Excess
Comment: 4.5 acres; potential utilities; most recent use—wildlife management.

Oregon

Tract 108 (Portion of)
Willow Creek Lake Project
Heppner Co: Morrow OR 77836–
Location: Located up hill from the left abutment of the dam structure.
Landholding Agency: COE
Property Number: 319011687
Status: Unutilized
Comment: 2.25 acres; unimproved land; secured area with alternate access.

Pennsylvania

Dashields Locks and Dam
(Glenwillard, PA)
Crescent Twp. Co: Allegheny PA 15046–0475
Landholding Agency: COE
Property Number: 319210009
Status: Unutilized
Comment: 0.58 acres, most recent use—baseball field.

South Carolina

Land—U.S. Coast Guard
Folly Island Loran Station
Folly Island Co: Charleston SC 29401–
Landholding Agency: DOT
Property Number: 879120098
Status: Unutilized
Comment: 55 acres (88 acres submerged) tidal marshland, potential utilities.

Tennessee

Tract D–456
Cheatham Lock and Dam
Ashland Co: Cheatham TN 370 15–
Location: Right downstream bank of Sycamore Creek.
Landholding Agency: COE
Property Number: 319010942
Status: Excess
Comment: 8.93 acres; subject to existing easements.

Texas

Tract J–957
Whitney Lake
Bosque Co: Bosgue TX
Location: Via Avenue B within the community of Kopperl.
Landholding Agency: COE
Property Number: 319110029
Status: Unutilized
Comment: .18 acres; potential utilities; encroachments on large portion of property.

Tract J–936
Whitney Lake
Bosque Co: Bosgue TX
Location: Off F. M. Highway 56 within the community of Kopperl.
Landholding Agency: COE
Property Number: 319110032
Status: Unutilized
Comment: 5.4 acres; potential utilities.

Tract F–516 O.C. Fisher Lake
Parallel with Grape Creek Road
San Angelo Co: Tom Green TX 76902–3085
Landholding Agency: COE
Property Number: 319120002
Status: Unutilized
Comment: 2.13 acres, potential limited utilities.

Part of Tract 102 Segment 1
Bardwell Dam Road
Ennis Co: Ellis TX 75119–
Landholding Agency: COE
Property Number: 319140014
Status: Unutilized
Comment: approx. 4.5 acres.

Unsuitable Properties

Buildings (by State)

Alabama

Dwelling A
USCG Mobile Pt. Station
Ft. Morgan
Gulfshores Co: Baldwin AL 36542–
Landholding Agency: DOT
Property Number: 879120001
Status: Excess
Reason: Floodway

Dwelling B
USCG Mobile Pt. Station
Ft. Morgan
Gulfshores Co: Baldwin AL 36542–
Landholding Agency: DOT
Property Number: 879120002
Status: Excess
Reason: Floodway

Oil House
USCG Mobile Pt. Station
Ft. Morgan
Gulfshores Co: Baldwin AL 36542–
Landholding Agency: DOT
Property Number: 879120003
Status: Excess
Reason: Floodway

Garage
USCG Mobile Pt. Station
Ft. Morgan
Gulfshores Co: Baldwin AL 36542–
Landholding Agency: DOT
Property Number: 879120004
Status: Excess
Reason: Floodway

Shop Building
USCG Mobile Pt. Station
Ft. Morgan
Gulfshores Co: Baldwin AL 36542–
Landholding Agency: DOT
Property Number: 879120005
Status: Excess
Reason: Floodway

Alaska

Bldg. 28
USCG Support Center
Kodiak Co: Kodiak Island AK 99619–5000
Landholding Agency: DOT
Property Number: 879210126
Status: Excess
Reason: Within airport runway clear zone; Secured Area;

Bldg. 24
USCG Support Center
Kodiak Co: Kodiak Island AK 99619–5000
Landholding Agency: DOT
Property Number: 879210127
Status: Excess
Reason: Within airport runway clear zone; Secured Area; Within 2000 ft. of flammable or explosive material

Bldg. 19
USCG Support Center
Kodiak Co: Kodiak Island AK 99619–5000
Landholding Agency: DOT
Property Number: 879210128
Status: Excess
Reason: Within airport runway clear zone; Secured Area; Other
Comment: Extensive deterioration

Bldg. 94
USCG Support Center
Kodiak Co: Kodiak Island AK 99619–5000
Landholding Agency: DOT
Property Number: 879210129
Status: Excess
Reason: Secured Area; Other
Comment: Extensive deterioration

Bldg. 85
USCG Support Center
Kodiak Co: Kodiak Island AK 99619–5000
Landholding Agency: DOT
Property Number: 879210130
Status: Excess
Reason: Secured Area; Other
Comment: Extensive deterioration

Bldg. 18
USCG Support Center
Kodiak Co: Kodiak Island AK 99619–5000
Landholding Agency: DOT
Property Number: 879210132
Status: Excess
Reason: Secured Area; Within airport runway clear zone
GSA Number: U–ALAS–655A

Bldg. A512
USCG Support Center
Kodiak Co: Kodiak Island AK 99619–5000
Landholding Agency: DOT
Property Number: 879210133
Status: Excess
Reason: Secured Area; Within airport runway clear zone; Within 2000 ft. of flammable or explosive material

California

Naval Reserve Cntr.—# N62117
3100 Monte Diablo Avenue
Stockton Co: San Joaguin CA 95203–
Landholding Agency: GSA
Property Number: 549210021
Status: Excess
Reason: Within airport runway clear zone; Other
Comment: Extensive deterioration
GSA Number: 9–N–CA–1305

Bldg. 10, USCG Support Center
Coast Guard Island
Alameda Co: Alameda CA 94501–5100
Landholding Agency: DOT
Property Number: 879210134
Status: Excess
Reason: Secured Area

Colorado

Garage
Cherry Creek Lake
Aurora Co: Arapahoe CO
Landholding Agency: COE
Property Number: 319220001
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Alemeda Facility
350 S. Santa Fe Drive
Denver Co: Denver CO 80223–
Landholding Agency: DOT
Property Number: 879010014
Status: Unutilized
Reason: Other environmental
Comment: Contamination

Florida

Bldg. #3, Recreation Cottage
USCG Station
Marathon Co: Monroe FL 33050–
Landholding Agency: DOT
Property Number: 879210008
Status: Unutilized
Reason: Secured Area; Floodway

Georgia

Chapel Bldg. #319
Northwest Regional Hospital
1305 Redmond Road
Rome Co: Floyd GA 30165–
Landholding Agency: GSA
Property Number: 549220002
Status: Excess
Reason: Other
Comment: Inaccessible
GSA Number: 4–D–GA–0007A

Illinois

Former Martin L. King Center
3312 West Grenshaw Avenue
Chicago Co: Cook IL 60624–
Landholding Agency: GSA
Property Number: 549130005
Status: Excess
Reason: Other
Comment: Extensive deterioration
GSA Number: 2(R)–F–IL–691

Kentucky

Spring House
Kentucky River Lock and Dam No. 1
Highway 320
Carrollton Co: Carroll KY 41008–
Landholding Agency: COE
Property Number: 219040416
Status: Unutilized
Reason: Other
Comment: Spring House

Building
Kentucky River Lock and Dam No. 4
1021 Kentucky Avenue
Frankfort Co: Franklin KY 40601–9999
Landholding Agency: COE
Property Number: 219040417
Status: Unutilized
Reason: Other
Comment: Coal Storage

Building
Kentucky River Lock and Dam No. 4
1021 Kentucky Avenue
Frankfort Co: Franklin KY 40601–9999
Landholding Agency: COE
Property Number: 219040418
Status: Unutilized
Reason: Other
Comment: Coal Storage

Barn
Kentucky River Lock and Dam No. 3
Highway 561
Pleasureville Co: Henry KY 40057–
Landholding Agency: COE
Property Number: 219040419
Status: Underutilized
Reason: Other
Comment: 110 year old barn with crumbled foundation.

Tract 111—Building
Martins Fork Lake
Smith Co: Harlan KY 40867–
Location: 13 miles southeast of Harlan on Highway 987.
Landholding Agency: COE
Property Number: 319010062
Status: Unutilized
Reason: Floodway

Latrine
Kentucky River Lock and Dam Number 3
Highway 561
Pleasureville Co: Henry KY 40057–
Landholding Agency: COE
Property Number: 319040009
Status: Unutilized
Reason: Other
Comment: Detached Latrine

6–Room Dwelling
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120010
Status: Unutilized
Reason: Floodway

2-Car Garage
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120011
Status: Unutilized
Reason: Floodway

Office and Warehouse
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120012
Status: Unutilized
Reason: Floodway

2 Pit Toilets
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Landholding Agency: COE
Property Number: 319120013
Status: Unutilized
Reason: Floodway

Missouri

Building-Stockton Lake Project
Old Mill Area
(See County) Co: Cedar MO 65785–
Landholding Agency: COE
Property Number: 219040414
Status: Unutilized
Reason: Floodway

New Mexico

Cochiti Lake Project Office
Pena Blanca Co: Sandoval NM 87041–
Location: 30 miles from Santa Fe. 45 miles from Albequerque.
Landholding Agency: COE
Property Number: 319011505
Status: Underutilized
Reason: Secured Area

New York

Bldg. 8
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA

Property Number: 549120013
Status: Excess
Reason: Other
Comment: Electrical Substation
GSA Number: 2–N–NY–797

Bldg. 7
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120014
Status: Excess
Reason: Other
Comment: Electrical Substation
GSA Number: 2–N–NY–797

Bldg. R450
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120038
Status: Excess
Reason: Other
Comment: Electrical Substation
GSA Number: 2–N–NY–797

Hospital Area Steam Tunnel
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120045
Status: Excess
Reason: Other
Comment: Structurally unsound
GSA Number: 2–N–NY–797

North Street Steam Tunnel
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120046
Status: Excess
Reason: Other
Comment: Structurally unsound
GSA Number: 2–N–NY–797

Puerto Rico

Mona Island
Punta Este Co: Mona Island PR
Landholding Agency: GSA
Property Number: 879010004
Status: Excess
Reason: Other
Comment: Inaccessible
GSA Number: 2NPR0490

Tennessee

Bldg. 204
Cordell Hull Lake and Dam Project
Defeated Creek Recreation Area
Carthage Co: Smith TN 37030–
Location: US Highway 85
Landholding Agency: COE
Property Number: 319011499
Status: Unutilized
Reason: Floodway

Tract 2618 (Portion)
Cordell Hull Lake and Dam Project
Roaring River Recreation Area
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 135
Landholding Agency: COE
Property Number: 319011503
Status: Underutilized
Reason: Floodway

Water Treatment Plant
Dale Hollow Lake & Dam Project
Obey River Park, State Hwy 42
Livingston Co: Clay TN 38351–
Landholding Agency: COE
Property Number: 319140011
Status: Excess
Reason: Other
Comment: Water treatment plant

Water Treatment Plant
Dale Hollow Lake & Dam Project
Lillydale Recreation Area, State Hwy 53
Livingston Co: Clay TN 38351–
Landholding Agency: COE
Property Number: 319140012
Status: Excess
Reason: Other
Comment: Water treatment plant

Water Treatment Plant
Dale Hollow Lake & Dam Project
Willow Grove Recreational Area, Hwy No. 53
Livingston Co: Clay TN 38351–
Landholding Agency: COE
Property Number: 319140013
Status: Excess
Reason: Other
Comment: Water treatment plant

Texas

Bldg. 18
Fort Point
Galveston Harbor and Channel Project
Galveston Co: Galveston TX 77550–
Landholding Agency: COE
Property Number: 319110033
Status: Unutilized
Reason: Secured Area

Bldg. 19
Fort Point
Galveston Harbor and Channel Project
Galveston Co: Galveston TX 77550–
Landholding Agency: COE
Property Number: 319110034
Status: Unutilized
Reason: Secured Area

Bldg. 20
Fort Point
Galveston Harbor and Channel Project
Galveston Co: Galveston TX 77550–
Landholding Agency: COE
Property Number: 319110035
Status: Unutilized
Reason: Secured Area

Bldg. 21
Fort Point
Galveston Harbor and Channel Project
Galveston Co: Galveston TX 77550–
Landholding Agency: COE
Property Number: 319110036
Status: Unutilized
Reason: Secured Area

Bldg. 22
Fort point
Galveston Harbor and Channel Project
Galveston Co: Galveston TX 77550–
Landholding Agency: COE
Property Number: 319110037
Status: Unutilized
Reason: Secured Area

Land (by State)

Alaska

Nike Site, Tract 104
Jig Battery "D"
Eielson Defense Area
Fairbanks Co: Fairbanks AK 99701–
Landholding Agency: GSA
Property Number: 549120001
Status: Excess
Reason: Other
Comment: Property is landlocked
GSA Number: 9–D–AK–506–AD

Arizona

11.217 Acre Site
Davis-Monthan AFB
Tucson Co: Pima AZ 85707–5000
Landholding Agency: GSA
Property Number: 549210020
Status: Excess
Reason: Floodway
GSA Number: 9–GR1–AZ–437HHH, 9–GR2–AZ–437Y

Colorado

Sunset Canyon Field Station
Boulder Co: Boulder CO 80302–
Location: 5 miles west of Wall Street on County Road 118
Landholding Agency: GSA
Property Number: 549030019
Status: Excess
Reason: Floodway
GSA Number: 7–C–CO–602

Georgia

(P) Dobbins AFB / (P) NAS Atlanta
N.E. Quadrant of Intersection between Fairground & South Cobb Drive
Marietta Co: Cobb GA 30060–
Landholding Agency: GSA
Property Number: 549140001
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4–GR–GA–557 & 4–GR–GA–587A

Kentucky

Tract 4626
Barkley, Lake, Kentucky and Tennessee
Donaldson Creek Launching Area
Cadiz Co: Trigg KY 42211–
Location: 14 miles from US Highway 68.
Landholding Agency: COE
Property Number: 319010030
Status: Underutilized
Reason: Floodway

Tract AA–2747
Wolf Creek Dam and Lake Cumberland
U.S. HWY. 27 to Blue John Road
Burnside Co: Pulaski KY 42519–
Landholding Agency: COE
Property Number: 319010038
Status: Underutilized
Reason: Floodway

Tract AA–2726
Wolf Creek Dam and Lake Cumberland
KY HWY. 80 to Route 769
Burnside Co: Pulaski KY 42519–
Landholding Agency: COE
Property Number: 319010039
Status: Underutilized
Reason: Floodway

Tract 1358
Barkley Lake, Kentucky and Tennessee
Eddyville Recreation Area
Eddyville Co: Lyon KY 42038–
Location: US Highway 62 to state highway 93.
Landholding Agency: COE
Property Number: 319010043
Status: Excess

Reason: Floodway

Red River Lake Project
Stanton Co: Powell KY 40380–
Location: Exit Mr. Parkway at the Stanton and Slade Interchange, then take SR Hand 15 north to SR 613.
Landholding Agency: COE
Property Number: 319011684
Status: Unutilized
Reason: Floodway

Barren River Lock & Dam No. 1
Richardsville Co: Warren KY 42270–
Landholding Agency: COE
Property Number: 319120008
Status: Unutilized
Reason: Floodway

Green River Lock & Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy. 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120009
Status: Unutilized
Reason: Floodway

Green River Lock & Dam No. 4
Woodbury Co: Butler KY 42288–
Location: Off State Hwy 403, which is off State Hwy 231
Landholding Agency: COE
Property Number: 319120014
Status: Underutilized
Reason: Floodway

Green River Lock & Dam No. 5
Readville Co: Butler KY 42275–
Location: Off State Highway 185
Landholding Agency: COE
Property Number: 319120015
Status: Unutilized
Reason: Floodway

Green River Lock & Dam No. 6
Brownsville Co: Edmonson KY 42210–
Location: Off State Highway 259
Landholding Agency: COE
Property Number: 319120016
Status: Underutilized
Reason: Floodway

Vacant land west of locksite
Greenup Locks and Dam
5121 New Dam Road
Rural Co: Greenup KY 41144–
Landholding Agency: COE
Property Number: 319120017
Status: Unutilized
Reason: Floodway

E.C. Clements Job Corps Cntr.
1 Mile East of Morganfield, KY
Morganfield Co: Union KY 42437–
Landholding Agency: GSA
Property Number: 549120002
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material; within airport runway clear zone
GSA Number: 4–L–KY–432–E

Louisiana

Land
Louisiana Army Ammunition Plant
Doyline Co: Webster LA
Landholding Agency: GSA
Property Number: 219013923
Status: Excess
Reason: Other
Comment: Barrow pit, predominately under water
GSA Number: 7–D–LA–0435D

Michigan

Middle Marker Facility
Yipsilanti Co: Washtenaw MI 48198–
Location: 549 ft. north of intersection of Coolidge and Bradley Ave. on East side of street
Landholding Agency: DOT
Property Number: 879120006
Status: Unutilized
Reason: Within airport runway clear zone

Minnesota

Parcel G
Pine River
Cross Lake Co: Crow Wing MN 56442–
Location: 3 miles from city of Cross Lake between highways 6 and 371.
Landholding Agency: COE
Property Number: 319011037
Status: Excess
Reason: Other
Comment: Highway right of way

Mississippi

Parcel 1
Grenada Lake
Section 20
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 319011018
Status: Underutilized
Reason: Within airport runway clear zone

Missouri

Stockton Public Use Area
Stockton Lake
Stockton Co: Cedar MO 65785–0632
Location: Adjacent to and east of Stockton, MO.
Landholding Agency: COE
Property Number: 319011471
Status: Underutilized
Reason: Floodway

Smith's Fork Park
Smithville Lake
Smithville Co: Clay MO 64089–
Location: Within Smithville Lake water resource project downstream from dam, adjoins Smithville.
Landholding Agency: COE
Property Number: 319011473
Status: Underutilized
Reason: Floodway

Old Mill Area
Stockton Lake
Stockton Co: Cedar MO 65785–0632
Location: Below Stockton Lake Dam on right bank of Outlet Channel/SAC River. Approximately 2 miles from Stockton.
Landholding Agency: COE
Property Number: 319011477
Status: Underutilized
Reason: Floodway

Ditch 19, Item 2, Tract No. 230
St. Francis Basin Project
2½ miles west of Malden Co: Dunklin MO
Landholding Agency: COE
Property Number: 319130001
Status: Unutilized
Reason: Floodway

North Carolina

Land
Atlantic Intracoastal Waterway
(See County) Co: Corrituck NC
Location: Near old Coinjack Bridge.
Landholding Agency: COE
Property Number: 319011537
Status: Unutilized
Reason: Floodway

Ohio

Ohio River
New Cumberland Lock and Dam
Glasgow Co: Beaver OH
Landholding Agency: COE
Property Number: 319011560
Status: Unutilized
Reason: Floodway

Ohio River
Pike Island Lock and Dam
RD #1, Box 33
Tiltonsville Co: Jefferson OH
Landholding Agency: COE
Property Number: 319011561
Status: Underutilized
Reason: Floodway

Pennsylvania

Land
Raystown Lake
Huntingdon Co: Huntingdon PA
Location: Downstream of Raystown Lake.
Landholding Agency: COE
Property Number: 219040420
Status: Excess
Reason: Other
Comment: Property Landlocked

Lock and Dam #7
Monongahela River
Greensboro Co: Greene PA
Location: Left hand side of entrance roadway to project.
Landholding Agency: COE
Property Number: 319011564
Status: Unutilized
Reason: Floodway

Land—Tioga-Hammond Lakes
Mansfield Co: Tioga PA 16933–
Location: 2 miles northeast of Mansfield on State Route 58044
Landholding Agency: GSA
Property Number: 319120001
Status: Excess
Reason: Floodway
GSA Number: 4–D–PA–0699G

Tennessee

McClure Bend
Cordell Hull Dam and Reservoir
Carthage Co: Smith TN 37030–
Location: Highway 85 to McClure Bend Road.
Landholding Agency: COE
Property Number: 219040412
Status: Underutilized
Reason: Floodway

Brooks Bend
Cordell Hull Dam and Reservoir
Highway 85 to Brooks Bend Road
Gainesboro Co: Jackson TN 38562–
Location: Tracts 800, 802–806, 835–837, 900–902, 1000–1003, 1025
Landholding Agency: COE
Property Number: 219040413
Status: Underutilized
Reason: Floodway

Cheatham Lock and Dam
Highway 12
Ashland City Co: Cheatham TN 370 15–
Location: Tracts E–513, E–512–1 and E–512–2

Landholding Agency: COE
Property Number: 219040415
Status: Underutilized
Reason: Floodway

Tract 6737
Blue Creek Recreation Area
Barkley Lake, Kentucky and Tennessee
Dover Co: Stewart TN 37058–
Location: U.S. Highway 79/TN Highway 761
Landholding Agency: COE
Property Number: 319011478
Status: Underutilized
Reason: Floodway

Tracts 3102, 3105, and 3106
Brimstone Launching Area
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 319011479
Status: Excess
Reason: Floodway

Tract 3507
Proctor Site
Cordell Hull Lake and Dam Project
Celina Co: Clay TN 38551–
Location: TN Highway 52
Landholding Agency: COE
Property Number: 319011480
Status: Unutilized
Reason: Floodway

Tract 3721
Obey
Cordell Hull Lake and Dam Project
Celina Co: Clay TN 38551–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 319011481
Status: Unutilized
Reason: Floodway

Tracts 608, 609, 611 and 612
Sullivan Bend Launching Area
Cordell Hull Lake and Dam Project
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 319011482
Status: Underutilized
Reason: Floodway

Tract 920
Indian Creek Camping Area
Cordell Hull Lake and Dam Project
Granville Co: Smith TN 38564–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 319011483
Status: Underutilized
Reason: Floodway

Tracts 1710, 1716 and 1703
Flynns Lick Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: Whites Bend Road
Landholding Agency: COE
Property Number: 319011484
Status: Underutilized
Reason: Floodway

Tract 1810
Wartrace Creek Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38551–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 319011485
Status: Underutilized
Reason: Floodway

Tract 2524
Jennings Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 319011486
Status: Unutilized
Reason: Floodway

Tracts 2905 and 2907
Webster
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38551–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 319011487
Status: Unutilized
Reason: Floodway

Tracts 2200 and 2201
Gainesboro Airport
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: Big Bottom Road.
Landholding Agency: COE
Property Number: 319011488
Status: Underutilized
Reason: Within airport runway clear zone
Floodway

Tracts 710C and 712C
Sullivan Island
Cordell Hull Lake and Dam Project
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 319011489
Status: Unutilized
Reason: Floodway

Tract 2403, Hensley Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 319011490
Status: Unutilized
Reason: Floodway

Tracts 2117C, 2118 and 2120
Cordell Hull Lake and Dam Project
Trace Creek
Gainesboro Co: Jackson TN 38562–
Location: Brooks Ferry Road
Landholding Agency: COE
Property Number: 319011491
Status: Unutilized
Reason: Floodway

Tracts 424, 425 and 426
Cordell Hull Lake and Dam Project
Stone Bridge
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 319011492
Status: Unutilized
Reason: Floodway

Tract 517
J. Percy Priest Dam and Reservoir
Suggs Creek Embayment
Nashville Co: Davidson TN 37214–
Location: Interstate 40 to S. Mount Juliet Road.
Landholding Agency: COE
Property Number: 319011493
Status: Underutilized
Reason: Floodway

Tract 1811
West Fork Launching Area
Smyrna Co: Rutherford TN 37167–
Location: Florence Road near Enon Springs Road
Landholding Agency: COE
Property Number: 319011494
Status: Underutilized
Reason: Floodway

Tract 1504
J. Perry Priest Dam and Reservoir
Lamon Hill Recreation Area
Smyrna Co: Rutherford TN 37167–
Location: Lamon Road
Landholding Agency: COE
Property Number: 319011495
Status: Underutilized
Reason: Floodway

Tract 1500
J. Perry Priest Dam and Reservoir
Pools Knob Recreation
Smyrna Co: Rutherford TN 37167–
Location: Jones Mill Road
Landholding Agency: COE
Property Number: 319011496
Status: Underutilized
Reason: Floodway

Tracts 245, 257, and 256
J. Perry Priest Dam and Reservoir
Cook Recreation Area
Nashville Co: Davidson TN 37214–
Location: 2.2 miles south of Interstate 40 near Saunders Ferry Pike.
Landholding Agency: COE
Property Number: 319011497
Status: Underutilized
Reason: Floodway

Tracts 107, 109 and 110
Cordell Hull Lake and Dam Project
Two Prong
Carthage Co: Smith TN 37030–
Location: US Highway 85
Landholding Agency: COE
Property Number: 319011498
Status: Unutilized
Reason: Floodway

Tracts 2919 and 2929
Cordell Hull Lake and Dam Project
Sugar Creek
Gainesboro Co: Jackson TN 38562–
Location: Sugar Creek Road
Landholding Agency: COE
Property Number: 319011500
Status: Unutilized
Reason: Floodway

Tracts 1218 and 1204
Cordell Hull Lake and Dam Project
Granville—Alvin Yourk Road
Granville Co: Jackson TN 38564–
Landholding Agency: COE
Property Number: 319011501
Status: Unutilized
Reason: Floodway

Tract 2100
Cordell Hull Lake and Dam Project
Galbreaths Branch
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 319011502
Status: Unutilized
Reason: Floodway

Tract 104 et. al.
Cordell Hull Lake and Dam Project
Horshoe Bend Launching Area
Carthage Co: Smith TN 37030–
Location: Highway 70 N
Landholding Agency: COE
Property Number: 319011504
Status: Underutilized
Reason: Floodway

Tracts 510, 511, 513 and 514
J. Percy Priest Dam and Reservoir Project
Lebanon Co: Wilson TN 37087–
Location: Vivrett Creek Launching Area, Alvin Sperry Road
Landholding Agency: COE
Property Number: 319120007
Status: Underutilized
Reason: Floodway

Tract A–142, Old Hickory Beach
Old Hickory Blvd.
Old Hickory Co: Davidson TN 37138–
Landholding Agency: COE
Property Number: 319130008
Status: Underutilized
Reason: Floodway

Texas

Tracts 104, 105–1, 105–2 & 118
Joe Pool Lake
(See County) Co: Dallas TX
Landholding Agency: COE
Property Number: 319010397
Status: Underutilized
Reason: Floodway

Part of Tract 201–3
Joe Pool Lake
(See County) Co: Dallas TX
Landholding Agency: COE
Property Number: 319010398
Status: Underutilized
Reason: Floodway

Part of Tract 323
Joe Pool Lake
(See County) Co: Dallas TX
Landholding Agency: COE
Property Number: 319010399
Status: Underutilized
Reason: Floodway

Tract 702–3
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 319010401
Status: Unutilized
Reason: Floodway

Tract 706
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 319010402
Status: Unutilized
Reason: Floodway

Virginia

0.07 Acre, Dismal Swamp Canal
West of U.S. Rt. 17
Chesapeake VA
Landholding Agency: COE
Property Number: 319210012
Status: Unutilized
Reason: Other
Comment: Inaccessible

Washington

Portion
Chehalis-Mayfield access road right-of-way
Approx. 2 mi. east of Onalaska Co: Lewis WA 98570–
Landholding Agency: GSA
Property Number: 549140006
Status: Excess
Reason: Other
Comment: Inaccessible
GSA Number: 9–B–WA–1014

West Virginia

Ohio River
Pike Island Locks and Dam
Buffalo Creek
Wellsburg Co: Brooke WV
Landholding Agency: COE
Property Number: 319011529
Status: Unutilized
Reason: Floodway

Morgantown Lock and Dam
Box 3 RD #2
Morgantown Co: Monongahelia WV 26505–
Landholding Agency: COE
Property Number: 319011530
Status: Unutilized
Reason: Floodway

London Lock and Dam
Route 60 East
Rural Co: Kanawha WV 25126–
Location: 20 miles east of Charleston, W. Virginia.
Landholding Agency: COE
Property Number: 319011690
Status: Unutilized
Reason: Other
Comment: .03 acres; very narrow strip of land located too close to busy highway.

[FR Doc. 92–11847 Filed 5–21–92; 8:45 am]

BILLING CODE 4210–29–M

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–92–3405; FR–3158–N–02]

NOFA for the Public and Indian Housing Drug Elimination Program—FY 1992

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of extension of time for submission of applications.

SUMMARY: On April 30, 1992, HUD published a notice of funding availability for the Public and Indian Housing Drug Elimination Program, requesting applications by June 12, 1992. The purpose of this Notice is to extend the time for submission of applications until July 10, 1992.

DATES: The application due date originally announced for June 12, 1992 is extended by this notice to July 10, 1992.

FOR FURTHER INFORMATION CONTACT: Malcolm E. Main, Drug-Free Neighborhoods Division, Office of Resident Initiatives, Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1197 or 708–3502. A telecommunications device for deaf persons (TDD) is available at (202) 708–0850. [These are not toll-free telephone numbers.]

SUPPLEMENTARY INFORMATION: The Public Housing Drug Elimination Grant program was authorized under chapter 2, subtitle C, title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et seq.), as amended by section 581 of the Cranston-Gonzalez National Affordable Housing Act of 1990, approved November 28, 1990, Public Law 101–625.

A FY 1992 notice of fund availability (NOFA) for the above-described program was published on April 30, 1992 (57 FR 18774). The original notice provided 42 days—until June 12, 1992—for applications in response to the NOFA. The Department has received numerous indications from prospective applicants that the allotted time for submitting applications is too short to permit the preparation and presentation of the necessary materials.

In response to these concerns, the Department is extending, for an additional month, the deadline for submission of applications for the FY 1992 funding round. It is hoped that this extension of time will expand the number and the quality of applications that HUD receives for funding.

Applications will now be due on or before 4 p.m. local time, on Friday, July 10, 1992. An original and two copies of the application must be received by the deadline at the local HUD field office with jurisdiction over Public Housing Agency (PHA) applicants, Attention: Assisted Housing Management Branch Director (or, in the case of Indian Housing Authority (IHA) applicants, in the local HUD Office of Indian Programs, Attention: Office of Indian Programs Director). (A listing of the addresses of HUD Field Offices and Indian Field Offices is included as an appendix to the April 30, 1992 NOFA.) This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as *ineligible for consideration* any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. It is not sufficient for

an application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable. Applications received after the deadline will not be considered.

Dated: May 18, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 92-12085 Filed 5-21-92; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-060-02-4410-04-ADVB]

California Desert District Advisory Council; Meeting

SUMMARY: Notice is hereby given, in accordance with Public Laws 92-463 and 94-579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, is scheduled to meet in formal session Wednesday, June 3, 1992, from 8:30 a.m. to 5 p.m., and Thursday, June 4, 1992, from 8 a.m. to 4 p.m., in the Empire Ball Room of the Sheraton Hotel, 3400 Market Street, Riverside, California.

Agenda items for the meetings will include:

—Council discussion and final action regarding the California Desert District's Futuring report;
—Review of the Cajon Pipeline Draft Environmental Impact Statement with Council discussion and recommendations on a preferred alternative;
—A briefing on the Southern California Association of Government's Strategic Plan and Open Space Element;
—Council discussion and recommendations for further consideration of proposed 1992 CDCA Plan Amendments;
—An update on the West Mojave Coordinated Management Plan;
—A status report and review of the public comments on the proposed Eagle Mountain Landfill project;
—Review and Council discussion regarding the Santa Rosa Mountains National Scenic Area Plan; and
—A report on solid waste management in the Desert.

All formal meetings are open to the public. Time is allocated for public comments, and time also may be made available by the Council Chair during the presentation of various agenda items.

Written comments may be filed in advance of the meeting with the California Desert District Advisory Council Chairman, Mr. David Fisher, c/o Bureau of Land Management, Public Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507-0714. Written comments are also accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION AND MEETING CONFIRMATION: Contact the Bureau of Land Management, California Desert District, Public Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507; (714) 697-5215.

Dated: May 15, 1992.

Gerald E. Hillier,

District Manager.

[FR Doc. 92-11996 Filed 5-21-92; 8:45 am]

BILLING CODE 4310-40-M

[OR120-6310-02 GPO 2-253]

Notice of Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of the Coos Bay District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Public Law 94-579 and 43 CFR, part 1780, that a meeting of the Coos Bay District Advisory Council will be held on June 25, 1992 at 1:00 p.m. in the conference room of the Coos Bay District Office at 1300 Airport Lane, North Bend, Oregon.

The agenda will include information about ongoing programs on the Coos Bay District, and provide the Council with a briefing on the Preferred Alternative currently being analyzed in the Coos Bay District Resource Management Plan.

The Coos Bay District Advisory Council is composed of 10 individuals with expertise in a wide variety of program areas including renewable resources, recreation, environmental protection and transportation and Rights-of-Way. The function of the Council is to provide the Coos Bay District Manager with advice on the management of district programs.

The meeting is open to the public and time will be provided for public comments. Individuals wishing to address the Council should notify Alan Hoffmeister, BLM Public Affairs Officer in the Coos Bay District Office, 1300 Airport Lane, North Bend, Oregon 97459, (503) 756-0100.

Melvin E. Chase,

District Manager.

[FR Doc. 92-12013 Filed 5-21-92; 8:45 am]

BILLING CODE 4310-33-M

[OR-100-09-6310-02; GP2-257]

Roseburg District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The District Advisory Council for the Bureau of Land Management Roseburg District will meet June 25, 1992, beginning at 1 p.m. in the Roseburg District Office Auditorium. On the agenda are a general update on District activities, election of officers, and an advance briefing on the preferred alternative for the Roseburg District Resource Management Plan, which will be distributed for public review in August.

ADDRESSES: Bureau of Land Management, Roseburg District Office, 777 NW Garden Valley Blvd. Roseburg, OR 97470.

FOR FURTHER INFORMATION CONTACT: Mel Ingeroi, Public Affairs Specialist, (503) 440-4930.

SUPPLEMENTARY INFORMATION: The meeting is open to the public, and a public comment period will be provided at 3 p.m. Written statements for the Council can be mailed to the District Manager prior to the meeting or presented to the Council during the meeting. Summary minutes will be available for public review within 30 days of the meeting.

Dated: May 18, 1992.

James A. Moorhouse,

District Manager.

[FR Doc 92-12031 Filed 5-21-92; 8:45 am]

BILLING CODE 4310-33-M

[CO-070-02-7122-09-7425]

Grand Junction Resource Area, Resource Management Plan, Proposed Exchange of Land and Realty Action; CO

AGENCY: Bureau of Land Management, Interior.

ACTION: The Notice of Intent to consider Amendment of the Grand Junction Resource Area Management Plan, 1987, FR 20233, published May 2, 1991, is superseded by this Notice of Intent/ Notice of Realty Action. This Notice identifies lands considered for possible exchange, serves as a Notice of Public Meetings and Public Comment Period to further identify issues to be addressed in an Environmental Assessment on the proposed Land Exchange and Amendment.

SUMMARY: Pursuant to section 102 of the National Environmental Policy Act of 1969 and section 202 of the Federal Land Policy and Management Act of 1976 (FLPMA), the Bureau of Land Management, Grand Junction District (BLM), will consider an amendment of the Grand Junction Resource Area Resource Management Plan, 1987, and pursuant to section 206 of FLPMA, the BLM will consider for disposal by exchange certain lands in Mesa County, Colorado, and will prepare an Environmental Assessment on the proposed exchange and amendment.

SUPPLEMENTARY INFORMATION: The Plan Amendment and Environmental Assessment are being developed to consider a proposed land exchange in Mesa County, Colorado. The proposal and alternatives being considered involve the exchange of the following public lands:

Sixth Principal Meridian, Colorado

T. 9 S., R. 94 W.,
Sec. 3, S½NE¼;
Sec. 8, E½SW¼, SE¼;
Sec. 9, SW¼;
Sec. 16, N½NW¼;
Sec. 17, NE¼, N½SE¼;
Sec. 18, Lots 1, 2 and 3, NE¼, NW¼SE¼, NE¼SW¼, E½NW¼.
T. 9 S., R. 95 W.,
Sec. 13, SE¼NE¼NE¼.

The lands described above contain 1250.34 acres, more or less. The publication of this notice in the **Federal Register** will segregate these lands to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations at 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be considered as filed and shall be returned to the applicant. The segregative effect will terminate upon issuance of a patent, upon publication in the **Federal Register** of termination of the segregation, or 2 years from the date of this publication, whichever occurs first.

The offered private land in the proposal and alternatives to be addressed in the Environmental Assessment include the following:

The Grassy Gulch parcel:

Sixth Principal Meridian, Colorado

T. 9 S., R. 94 W.,
Sec. 3, Lots 1, 2, 3 and 4, S½NW¼, SW¼, N½SE¼, SW¼SE¼;
Sec. 10, NW¼NE¼, N½NW¼.

The Horsethief Ranch:

Ute Meridian, Colorado

T. 1 N., R. 3 W.
Sec. 7, Lots 3, 4 and 5, SW¼NE¼, E½ NW¼;
Sec. 8, Lots 2, 4, 5 and 6, NE¼SE¼, SE¼ NE¼;
Sec. 9, S½NW¼, NW¼SW¼.

The offered land described above contains approximately 1278.72 acres. To the extent the value of the offered private land exceeds the value of the selected public land, BLM may purchase the excess offered land using appropriated funds.

The exchange proposal has been made to consolidate public ownership along the Colorado River. Issues identified in the first round of scoping include: wildlife habitat, grazing, access, recreation, and socio-economic concerns.

Two public open houses will be held concerning this proposal: June 16, 1992, from 4 to 7 p.m. at the Grand Junction District Office, 2815 H Road, Grand Junction, Colorado, and June 17, 1992, from 4 to 7 p.m. at the Plateau Valley School, Highway 330, west of Collbran. For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Grand Junction District Office, 2815 H Road, Grand Junction, Colorado 81506. The Environmental Assessment and Record of Decision concerning the proposed Plan Amendment will be prepared following the public comment period.

FOR FURTHER INFORMATION: Any additional information concerning this proposed land exchange and Amendment of the Grand Junction Resource Area Resource Management Plan is available for review at the Grand Junction District Office, 2815 H Road, Grand Junction, Colorado, 81506, or by contacting Sue Moyer, Wildlife Biologist, at (303) 244–3000.

Richard Arcand,

Acting District Manager.

[FR Doc. 92–11979 Filed 5–21–92; 8:45 am]

BILLING CODE 4310–JB–M

[NV–940–02–4212–22]

Filing of Plats of Survey; NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the latest filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing was effective at 10 a.m. on May 6, 1992.

FOR FURTHER INFORMATION CONTACT: John S. Parrish, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702–785–6543.

SUPPLEMENTARY INFORMATION: The Plats of Survey of lands described below were officially filed at the Nevada State Office, Reno, Nevada, on May 6, 1992:

Mount Diablo Meridian, Nevada

T. 44 N., R. 56 E.—Supplemental Plat of Section 7.

These surveys were accepted April 21, 1992, and were executed to meet certain administrative needs of the Bureau of Land Management.

The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Robert G. Steele,

Deputy State Director, Nevada.

[FR Doc. 92–11980 Filed 5–21–92; 8:45 am]

BILLING CODE 4310–HC–M

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On August 8, 1991, a notice was published in the **Federal Register**, Vol. 56, No. 153, Page 37720, that an application has been filed with the Fish and Wildlife Service by the Fish and Wildlife Service, Alaska Fish and Wildlife Research Center (PRT–740507) for renewal of their permit and amendment to increase the number of takes of Alaska sea otters (*Enhydra lutris*). The purpose of the research is to conduct studies related to the Exxon Valdez oil spill.

Notice is hereby given that on April 29, 1992, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

The permit documents themselves are available for public inspection by appointment during normal business hours (7:45–4:15) at the Fish and Wildlife Service's Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 (703/358–2104).

Other information in permit file is available under the Freedom of Information Act to any person who submits a written request to the

Service's Office of Management Authority at the above address, in accordance with procedures set forth in Department of the Interior regulations, 43 CFR part 2.

Dated: May 18, 1992.

Margaret Tieger,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 92-11983 Filed 5-21-92; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 9, 1992. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by June 8, 1992.

Carol D. Shull,

Chief of Registration, National Register.

ARIZONA

Apache County

Butterfly Lodge, Forest Rd. 245 E of AZ 373, Apache, NF, Greer vicinity, 92000686

Maricopa County

Glendale Townsite—Catlin Court Historic District, Roughly bounded by Gardenia, 58th, Myrtle, 57th, Palmaire and 59th Aves. and 58th Dr., Glendale, 92000680

IDAHO

Adams County

Council Ranger Station, Jct. of US 95 and Whiteley Ave., Council, 92000689

Valley County

Krassel Ranger Station, Along S Fork Salmon R., 11 mi. W of Yellowpine, Payette NF, Yellowpine vicinity, 92000688

MINNESOTA

Lake County

Samuel P. Ely Shipwreck, Address Restricted, Two Harbors vicinity, 92000694

NEW YORK

Ulster County

Snyder Estate Natural Cement Historic District, NY 213, ½ mi. W of Rosendale, Rosendale vicinity, 92000695

NORTH CAROLINA

Rutherford County

Carrier Houses, 415 and 423 Main St., Rutherfordton, 92000681

SOUTH DAKOTA

Brookings County

Beals, William H. and Elizabeth, House, 1302 Sixth St., Brookings, 92000685

Corson County

Antelope Creek Stage Station (South Dakota Portion of the Bismarck to Deadwood Trail MPS), Address Restricted, Morristown vicinity, 92000692

Grand River Stage Station (South Dakota Portion of the Bismarck to DeaDwood Trail MPS), Address Restricted, Morristown vicinity, 92000693

Custer County

Bauer, Maria, Homestead Ranch, 3 mi. SE of Jewel Cave, NM, Custer vicinity, 92000683

CCC Camp Custer Officers' Cabin, 8 mi. NW of Custer on Custer Co. Rd. 292, Custer vicinity, 92000684

Meade County

Frozenman Stage Station (South Dakota Portion of the Bismarck to Deadwood Trail MPS), Address Restricted, Bison vicinity, 92000691

Stomprude Trail Ruts (South Dakota Portion of the Bismarck to Deadwood Trail (MPS), Address Restricted, Bison vicinity, 92000690

Turner County

Newhall, Chandler Gray and Mary Abbie, House and Homestead Shack, 5 mi. W and 4¼ mi. S of Parker, Parker vicinity, 92000682

VERMONT

Windham County

Stratton Mountain Lookout Tower, Summit of Stratton Mountain, Green Mountain NF, Stratton, 92000687

[FR Doc. 92-11900 Filed 5-21-92; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development Board for International Food and Agricultural Development and Economic Cooperation; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the One Hundred and Eleventh Meeting of the Board for International Food and Agricultural Development and Economic Cooperation (BIFADEC) on June 18, 1992, from 8:30 a.m. to 5 p.m.

The purposes of the meeting are: (1) To review A.I.D. participant training programs; (2) to consider a review and external evaluation of the Collaborative Research Support Program; and (3) to discuss A.I.D.'s policy on Title XII projects—trends and possible new definitions.

This meeting will be held in the Main State Department Building in room 1107, N.S. Any interested person may attend and may present oral statements in accordance with procedures established by the Board and to the extent time available for the meeting permits.

All persons, visitors and employees are required to wear proper identification at all times while in the Department of State building. Please let the BIFADEC/University Center (UC) staff know (tel #703-816-0277) that you expect to attend the meeting. Provide your full name, name of employing company or organization, address and telephone number not later than June 11, 1992. A UC staff member will meet you at the Department of State Diplomatic Entrance at C and 22nd Streets, NW., with your pass.

C. Stuart Callison, Deputy Executive Director, Agency Center for University Cooperation in Development, Bureau for Research and Development, Agency for International Development, will be the A.I.D. Advisory Committee Representative at this Meeting. Those desiring further information may write to Dr. Callison, in care of the Agency for International Development, room 900 SA-38, Washington, DC 20523-3801 or telephone him on (703) 816-0294.

Dated: May 18, 1992.

Ralph H. Smuckler,

Executive Director, Agency Center for University Cooperation in Development.

[FR Doc. 92-11987 Filed 5-21-92; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32040]

Ashland Railway, Inc., Lease and Operation Exemption; CSX Transportation, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, under 49 U.S.C. 10505, exempts Ashland Railway, Inc., from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, to lease and operate a 1.72.-mile rail line owned by CSX Transportation, Inc.

DATES: This exemption is effective on June 21, 1992. Petitions for stay must be filed by June 8, 1992, and petitions for reconsideration must be field by June 16, 1992.

ADDRESSES: Send pleadings referring to Finance Docket No. 32040 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioners' representatives: G. David Crane, 9 Market Place, Village of Logan Square, New Hope, PA 18938. Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street, J150, Jacksonsille, FL 32202.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927–5610, (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359 (Assistance for the hearing impaired is available through TDD services (202) 927–5721.)

Decided: May 15, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–12050 Filed 5–21–92; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-No. 422X]

CSX Transportation, Inc.—Abandonment Exemption—In Ludington, MI; Exemption

Applicant has filed a notice of exemption under 497 CFR 1152 subpart F—Exempt Abandonments to abandon its 1.48-mile line of railroad between Valuation Stations 28+50 and 106+74 in Ludington, Mason County, MI.

Applicant has certified that: (1) No local or overhead traffic has moved over the line for a least 2 years; (2) there is no overhead traffic on the line; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on June 21, 1992, (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file offers of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by June 1, 1992.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 11, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by May 27, 1992. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 927–6248. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision:

Decided: May 15, 1992.

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environmental in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay based on environmental concerns should file its request as soon as possible to permit Commission review and action before the exemption's effective date.

[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 *I.C.C. 2d 164 (1987)*.

[3] The Commission will accept late-filed trail use statements as long as it retains jurisdiction.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.

Secretary.

[FR Doc. 92–11954 Filed 5–21–92; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32035]

Fox Valley & Western Ltd., Exemption, Acquisition and Operation

Fox Valley & Western Ltd. (FVW), a non-carrier, has filed a verified notice of exemption to acquire and operate: (1) The operating assets of Green Bay and Western Railroad Company (GBW), Fox River Valley Railroad Corporation (FRVR), and The Ahnapee & Western Railway Company (A&W); and (2) 93.8 miles of incidental trackage rights from FRVR and Wisconsin Central Ltd. (WCL). The properties include the following lines in Wisconsin:

Lines Owned by GBW (254 route miles): East Winona (MP 211.9) to Green Bay (MP 0.0); Green Bay (MP 0.3) to Kewaunee (MP 35.6); Plover (MP 0.0) to Stevens Point (MP 5.0); and Coyne (MP 0.0) to Biron (MP 1.8).

Lines Owned by FRVR (211 route miles): Duck Creek (MP 4.0) to Granville (MP 99.5); Cleveland (MP 62.2) to Tavil (Green Bay) (MP 113.7); Manitowoc (MP 76.3) to Two Rivers (MP A7.5); Appleton (MP 121.5) to New London (MP 141.0); Appleton (MP 121.5) to Kaukauna (MP 111.0); North Oshkosh (MP 20.1) to Oshkosh (MP 22.3); and the Purina Spur (MP 175.7) to Fond du Lac (MP 176.8).

Lines Owned by A&W (13.5 route miles): Casco Junction (MP 22.7) to Algoma (MP 36.2.)

Trackage Rights Over WCL (80.5 route miles): Black Creek (MP 341.1) to Fond du Lac (MP 154.9); Stevens Point (MP 249.2) to Wisconsin Rapids (MP 48.4) (via Junction City); and Stevens Point (MP 0.0) to Whiting (MP 2.0).

Assignment of FRVR Trackage Rights (13.3 route miles): Over Chicago & North Western Transportation Company from Granville (MP 99.5) to Bulter (Milwaukee) (MP 16.5).

This transaction is related to Finance Docket No. 32036, *Wisconsin Central Transportation Corporation—Continuance in Control—FVW* (filed April 28, 1992). FVW indicates that its acquisition will not be consummated until the control authority sought in Finance Docket No. 32036 is approved.

Any comments must be filed with the Commission and served on: Robert H. Wheeler, Oppenheimer Wolff & Donnelly, Two Illinois Center, 233 North Michigan Avenue, Chicago, IL 60601.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: May 18, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-12051 Filed 5-21-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Pursuant to the National Cooperative Research Act of 1984—Petroleum Environmental Research Forum

Notice is hereby given that, on May 1, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), the participants in the Petroleum Environmental Research Forum ("PERF") Project No. 90-05 filed written notifications simultaneously with the Attorney General and with the Federal Trade Commission disclosing a change in the parties participating in Project No. 90-05. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the notification stated that the following additional party has become a participant in PERF Project No. 90-05: Unocal Science and Technology Division, Union Oil Company of California, Brea, California 92621.

No other changes have been made in either the participants or planned activities of Project No. 90-05.

On March 19, 1991, participants in PERF Project No. 90-05 filed the original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on April 24, 1991 (56 FR 18837). On June 10, 1991 and February 7, 1992, the participants in PERF Project No. 90-05 filed additional written notifications. The Department published notices in the **Federal Register** in response to these additional notifications on July 5, 1991 (56 FR 30772), and on March 11, 1992 (57 FR 8676), respectively.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-12011 Filed 5-21-92; 8:45 am]

BILLING CODE 4410-01-M

Pursuant to the National Cooperative Research Act of 1984—Spray Drift Task Force

Notice is hereby given that, on April 27, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Spray Drift Task Force filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in the membership of the parties to the Spray Drift Task Force Joint Data Development Agreement. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. The change consists of the addition of the following party to the Spray Drift Task Force: Griffin Corporation—Valdosta, Georgia.

No other changes have been made in either the membership, corporate names or planned activities of the venture.

On May 15, 1990, the Spray Drift Task Force filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 5, 1990, (55 FR 27701). On July 16, 1990, September 17, 1990, April 1, 1991, July 23, 1991, October 11, 1991, and February 4, 1992, the Spray Drift Task Force filed additional written notifications.

The Department of Justice published notices in the **Federal Register** in response to these additional notifications on August 22, 1990, (55 FR 34357), October 18, 1990, (55 FR 42281), April 24, 1991, (56 FR 18837), August 29, 1991, (56 FR 42759), November 14, 1991, (56 FR 57903), and March 11, 1992, (57 FR 8676), respectively.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-12012 Filed 5-21-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a complaint styled *United States* v. *Tillamook County Creamery Association* was filed in the United States District Court for the District of Oregon on February 1, 1991. On May 14, 1992, a consent decree was lodged with the Court in settlement of the allegations in that complaint. The complaint, brought pursuant to section 301 of the Clean Water Act ("the Act") 33 U.S.C. 1311, alleged *inter alia* that on numerous occasions between 1988 and 1990, Tillamook violated the Act by exceeding the daily and monthly discharge limitations contained in its permit. The complaint also alleged that Tillamook failed to provide adequate operator training; employed deficient sampling techniques; failed to report all monitoring data; and failed to accurately calculate and report various types of data as prescribed in its permit.

Under the terms of the proposed consent decree, Tillamook agrees (1) to substantially upgrade its wastewater treatment plant by the end of 1993; (2) to pay the United States a civil penalty in the sum of $240,000 for the violations alleged in the government's complaint; and (3) to engage in a pollution prevention program approved by the EPA which is designed to improve the integrity of the local waters.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States* v. *Tillamook County Creamery Association*, D.J. Ref. 90-5-1-1-3647.

The proposed consent decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave. NW., Box 1097, Washington, DC 20004; (202) 347-7829. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $5.25 (25 cents per page reproduction costs) payable to Consent Decree Library. The proposed Consent Decree may also be reviewed at the Environmental Protection Agency:

EPA Region X

Contact: Mark Ryan, Office of Regional Counsel, U.S. Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, WA 98101.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92-12014 Filed 5-21-92; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determination, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page numbers(s).

Volume II

Kansas:
KS91-13 (May. 22, 1992) ..... p. All.

Volume III

Wyoming:
WY91-8 (May 22, 1992)..... p. All.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Maryland:
MD91-34 (Feb. 22, 1991) ..... p. All.
New Jersey:
NJ91-2 (Feb. 22, 1991)..... p. 701. p. 705.
NJ91-3 (Feb. 22, 1991)..... p. 721, pp. 724-725.
New York:
NY91-2 (Feb. 22, 1991) ..... p. 777, p. 778.
NY91-11 (Feb. 22, 1991) ..... p. 885, p. 886.
Pennsylvania:
PA91-22 (Feb. 22, 1991)..... p. 1111, p. 1112.

Volume II

Illinois:
IL91-9 (Feb. 22, 1991) ..... p. 153, p. 154.
IL91-16 (Feb. 22, 1991) ..... p. 215, p. 216.
Kansas:
KS91-6 (Feb. 22, 1991)..... p. All.
KS91-7 (Feb. 22, 1991)..... p. All.
KS91-8 (Feb. 22, 1991)..... p. All.
KS91-11 (Feb. 22, 1991)..... p. All.
KS91-12 (Feb. 22, 1991)..... p. All.
Michigan:
MI91-7 (Feb. 22, 1991)..... p. 515, p. 531.
Missouri:
MO91-1 (Feb. 22, 1991)..... p. 651, pp. 652-657, 659, p. 666.
MO91-2 (Feb. 22, 1991)..... p. 673, pp. 675-676.
MO91-3 (Feb. 22, 1991)..... p. 685, pp. 686-687.
MO91-7 (Feb. 22, 1991)..... p. 711, p. 712.
MO91-9 (Feb. 22, 1991)..... p. 721, pp. 722-724.
Texas:
TX91-6 (Feb. 22, 1991)..... p. All.
TX91-8 (Feb. 22, 1991)..... p. All.

Volume III

Colorado:
CO91-5 (Feb. 22, 1991)..... p. All.
Idaho:
ID91-1 (Feb. 22, 1991)..... p. All.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and Related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled

"General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from:

Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 15th day of May 1992.

Alan L. Moss,

Director, Division of Wage Determinations

[FR Doc. 92–11849 Filed 5–21–92; 8:45 am]

BILLING CODE 4510–27–Mv

Employment and Training Administration

Barnhart Drilling Co., Riverton, WY; Notice of Revised Determination on Reopening

On its own motion, the Department of Labor is reopening the following investigations:

TA–W	Firm and location	Dates	
		Rec'd	Denied
26,682	Barnhart Drilling Company, Riverton, Wyoming	12/23/91	03/23/92
26,698	Cheyenne Services, Incorporated, Pleasanton, Texas	12/30/91	03/18/92
26,751	Halliburton Services, Abilene, Texas	01/21/92	03/18/92
26,752	Halliburton Services, Wichita Falls, Texas	01/21/92	03/18/92
26,758	Santa Fe Drilling Company, Houston, Texas	01/21/92	03/30/92
26,764	Ashland Exploration, Ashland, Kentucky	01/27/92	04/09/92
26,774	Halliburton Services, Alice, Texas	01/27/92	03/20/92
26,775	Halliburton Services, Houston, Texas	01/27/92	03/20/92
26,776	Halliburton Services, Fresno, Texas	01/27/92	03/20/92
26,777	Halliburton Services, Lorado, Texas	01/27/92	03/20/92
26,778	Halliburton Services, Luling, Texas	01/27/92	03/20/92
26,779	Halliburton Services, Mission, Texas	01/27/92	03/20/92
26,780	Halliburton Services, Victoria, Texas	01/27/92	03/20/92
26,781	Halliburton Services, Corpus Christi, Texas	01/27/92	03/20/92
26,782	Halliburton Services, Galveston, Texas	01/27/92	03/20/92
26,783	Halliburton Services, Pleasanton, Texas	01/27/92	03/20/92
26,793	Computalog Drilling Services, Corpus Christi, Texas	02/03/92	04/28/92
26,799	First Seismic Corporation, Oklahoma City, Oklahoma	02/03/92	03/30/92
26,800	First Seismic Corporation, Dallas, Texas	02/03/92	03/30/92
26,801	First Seismic Corporation, New Orleans, Louisiana	02/03/92	03/30/92
26,802	First Seismic Corporation, Houston, Texas	02/03/92	03/30/92
26,803	First Seismic Corporation, Midland, Texas	02/03/92	03/30/92
26,804	First Seismic Corporation, Denver, Colorado	02/03/92	03/30/92
26,806	Halliburton Services, Bradford Pennsylvania	02/03/92	03/30/92
26,819	Production Geophysical Serv. Inc., Englewood, Colorado	02/03/92	03/30/92
26,821	Schlumberger Well Services, Corpus Christi, Texas; and	02/03/92	03/30/92
26,821A	Laredo, Texas		
26,821B	Pleasanton, Texas		
26,821C	Victoria, Texas		
26,821D	Wharton, Texas		
26,822	Schlumberger Well Services, Alice, Texas	02/03/92	03/30/92
26,835	Drilling and Service, Incorporated, Casper, Wyoming	02/10/92	04/18/92
26,858	ENSCO Drilling Company, Broussard, Louisiana	02/18/92	04/16/92
26,864	Halliburton Services, Lafayette, Louisiana	02/18/92	04/08/92
26,870	K W Well Service, Incorporated, Abilene, Texas	02/18/92	04/10/92
26,875	TMBR/Sharp Drilling, Incorporated, Midland, Texas	02/18/92	04/10/92
26,876	Trainer Surveys, Incorporated, Shreveport, Louisiana	02/18/92	04/16/92
26,896	Sonat Offshore Drilling, USA, Gulf of Mexico Division, New Orleans, Louisiana	02/24/92	04/17/92
26,906	Bull Rogers, Incorporated, Odessa, Texas; and	03/02/92	04/18/92
26,906A	Bull Rogers Laydown, Inc., Odessa, Texas	03/02/92	04/18/92
26,908	Cactus Drilling Company, Midland, Texas	03/02/92	04/27/92
26,913	Halliburton Services, Norton, Virginia	03/02/92	04/24/92
26,914	Halliburton Services, Belfield, North Dakota; and	03/02/92	04/24/92
26,914A	Williston, North Dakota		
26,915	Halliburton Services, Anchorage, Alaska; and	03/02/92	04/24/92
26,915A	Fairbanks, Alaska		
26,915B	Kenai, Alaska		
26,915C	North Slope, Alaska		
26,916	Halliburton Services, Elkview, West Virginia; and	03/02/92	04/24/92
26,916A	Weston, West Virginia		
26,917	Halliburton Services, Artesia, New Mexico; and	03/02/92	04/24/92
26,917A	Farmington, New Mexico		
26,917B	Hobbs, New Mexico		
26,918	Halliburton Services, Bossier City, Louisiana; and	03/02/92	04/24/92
26,918A	Cameron, Louisiana		
26,918B	Dulac, Louisiana		
26,918C	Fourchon, Louisiana		
26,918D	Grand Isle, Louisiana		
26,918E	Harvey, Louisiana		

TA-W	Firm and location	Dates	
		Rec'd	Denied
26,918F	Haynesville, Louisiana		
26,918G	Houma, Louisiana		
26,918H	Intracoastal City, Louisiana		
26,918I	Lake Charles, Louisiana		
26,918J	Morgan City, Louisiana		
26,918K	New Orleans, Louisiana		
26,918L	Shreveport, Louisiana		
26,918M	Venice, Louisiana		
26,918N	Theodore, Alabama		
26,918O	Tuscaloosa, Alabama		
26,919	Halliburton Services, Kalkaska, Michigan; and	03/02/92	04/24/92
26,919A	Mt. Pleasant, Michigan		
26,920	Halliburton Services, Helenwood, Tennessee	03/02/92	04/24/92
26,922	Halliburton Services, El Dorado, Kansas; and	03/02/92	04/24/92
26,922A	Great Bend, Kansas		
26,922B	Hays, Kansas		
26,922C	Hugoton, Kansas		
26,922D	Liberal, Kansas		
26,922E	McPherson, Kansas		
26,922F	Ness City, Kansas		
26,922G	Oberlin, Kansas		
26,922H	Pratt, Kansas		
26,922I	Wichita, Kansas		
26,922J	Winfield, Kansas		
26,923	Halliburton Services, Fort Smith, Arkansas	03/02/92	04/24/92
26,924	Halliburton Services, Duncan, Oklahoma; and	03/02/92	04/24/92
26,924A	Ardmore, Oklahoma		
26,924B	Bristow, Oklahoma		
26,924C	Burns Flat, Oklahoma		
26,924D	Enid, Oklahoma		
26,924E	Oklahoma City, Oklahoma		
26,924F	Pauls Valley, Oklahoma		
26,924G	Tulsa, Oklahoma		
26,924H	Wilburton, Oklahoma		
26,924I	Woodward, Oklahoma		
26,925	Halliburton Services, Brighton, Colorado; and	03/02/92	04/24/92
26,925A	Denver, Colorado		
26,925B	Lamar, Colorado		
26,925C	Sterling, Colorado		
26,926	Halliburton Services, Cortland, Ohio; and	03/02/92	04/24/92
26,926A	Wooster, Ohio		
26,926B	Zanesville, Ohio		
26,927	Halliburton Services, Indiana, Pennsylvania; and	03/02/92	04/24/92
26,927A	Pittsburgh, Pennsylvania		
26,928	Halliburton Services, Jackson, Mississippi; and	03/02/92	04/24/92
26,928A	Laurel, Mississippi		
26,928B	Natchez, Mississippi		
26,929	Halliburton Services, Amarillo, Texas; and	03/02/92	04/24/92
26,929B	Andrews, Texas		
26,929C	Beaumont, Texas		
26,929D	Brownfield, Texas		
26,929E	Caldwell, Texas		
26,929F	Dallas, Texas		
26,929G	Dumas, Texas		
26,929H	Freeport, Texas		
26,929I	Ft. Worth, Texas		
26,929J	Gainesville, Texas		
26,929K	Harbor Island, Texas		
26,929L	Jacksboro, Texas		
26,929M	Kilgore, Texas		
26,929N	Midland, Texas		
26,929O	Monahans, Texas		
26,929P	Odessa, Texas		
26,929Q	Palestine, Texas		
26,929R	Pampa, Texas		
26,929S	Perryton, Texas		
26,929T	Sabine Pass, Texas		
26,929U	San Antonio, Texas		
26,929V	Snyder, Texas		
26,929W	Sonora, Texas		
26,929X	Tyler, Texas		
26,930	Halliburton Services, Cutbank, Montana	03/02/92	04/24/92
26,931	Halliburton Services, Flora, Illinois	03/02/92	04/24/92
26,932	Halliburton Services, Vernal, Utah	03/02/92	04/24/92
26,933	Halliburton Services, Paintsville, Kentucky	03/02/92	04/24/92
26,934	Halliburton Services, Felda, Florida	03/02/92	04/24/92
26,937	Halliburton Services, Evanston, Wyoming; and	03/02/92	04/24/92
26,937A	Gillette, Wyoming		
26,937B	Rock Springs, Wyoming		
26,937C	Worland, Wyoming		

TA-W	Firm and location	Dates	
		Rec'd	Denied
26,938	Halliburton Services, Avenal, California; and	03/02/92	04/24/92
26,938A	Bakersfield, California		
26,938B	Coso Junction, California		
26,938C	El Centro, California		
26,938D	Middleton, California		
26,938E	Oxnard, California		
26,938F	Santa Fe Springs, California		
26,938G	West Kern, California		
26,938H	Woodland, California		
26,939	Halliburton Services, Billings, Montana	03/02/92	04/24/92
26,940	Halliburton Services, Ardmore, Oklahoma	03/02/92	04/24/92
26,953	Teledyne Exploration Company, Houston, Texas	03/02/92	04/24/92
26,958	The Anschutz Corporation, Denver, Colorado	03/09/92	04/16/92
27,048	Leede Exploration, Englewood, Colorado	03/23/92	04/16/92

Notice of Revised Determination on Reopening

On its own motion, the Department of Labor is reopening the above cited investigations.

On the above noted dates, the Department issued Negative Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance to workers of the above cited firms and locations.

The denials were based on trade and industry statistics regarding crude oil and natural gas imports as well as indicators of petroleum and natural gas exploration and drilling activity in the Untied States. These data showed a decline in crude oil imports.

Subsequently, revised data show an absolute and relative increase in crude oil imports for the period of February 1991 through January 1992 as compared to the previous year.

On reopening the investigations of the above petitions, the Department found that increased crude oil imports occurred during the relevant time periods under investigation.

In addition, the Department found that revenues and employment at the subjects firms declined during the periods under investigation.

Conclusion

After careful consideration of the new facts obtained on reopening it is concluded that increased imports of articles like or directly competitive with crude oil as related to exploration and drilling activities at the subject firms contributed importantly to the total or partial separation of workers at these firms at the noted locations. In accordance with the provision of the Trade Act of 1974, I make the following revised determinations:

All workers of the below cited firms and locations (except for those noted separately below) who became totally or partially separated from employment on or after February 1, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974:

TA-W	Firm and location
26,682	Barnhart Drilling Company, Riverton, Wyoming
26,698	Cheyenne Services, Incorporated, Pleasanton, Texas
26,751	Halliburton Services, Abilene, Texas
26,752	Halliburton Services, Wichita Falls, Texas
26,764	Ashland Exploration, Ashland, Kentucky
26,758	Santa Fe Drilling Company, Houston, Texas
26,774	Halliburton Services, Alice, Texas
26,775	Halliburton Services, Houston, Texas
26,776	Halliburton Services, Fresno, Texas
26,777	Halliburton Services, Lorado, Texas
26,778	Halliburton Services, Luling, Texas
26,779	Halliburton Services, Mission, Texas
26,780	Halliburton Services, Victoria, Texas
26,781	Halliburton Services, Corpus Christi, Texas
26,782	Halliburton Services, Galveston, Texas
26,783	Halliburton Services, Pleasanton, Texas
26,799	First Seismic Corporation, Oklahoma City, Oklahoma
26,800	First Seismic Corporation, Dallas, Texas
26,801	First Seismic Corporation, New Orleans, Louisiana
26,802	First Seismic Corporation, Houston, Texas
26,803	First Seismic Corporation, Midland, Texas
26,804	First Seismic Corporation, Denver, Colorado
26,806	Halliburton Services, Bradford, Pennsylvania
26,819	Production Geophysical Serv., Inc., Englewood, Colorado
26,835	Drilling and Service, Incorporated, Casper, Wyoming
26,858	ENSCO Drilling Company, Broussard, Louisiana
26,864	Halliburton Services, Lafayette, Louisiana
26,870	K W Well Service, Incorporated, Abilene, Texas
26,875	TMBR/Sharp Drilling, Incorporated, Midland, Texas
26,876	Trainer Surveys, Incorporated, Shreveport, Louisiana
26,896	Sonat Offshore Drilling, USA, Gulf of Mexico Division, New Orleans, Louisiana
26,906	Bull Rogers, Incorporated, Odessa, Texas; and
26,906A	Bull Rogers Laydown, Incorporated, Odessa, Texas
26,908	Cactus Drilling Company, Midland, Texas
26,913	Halliburton Services, Norton, Virginia
26,914	Halliburton Services, Belfield, North Dakota; and
26,914A	Williston, North Dakota
26,915	Halliburton Services, Anchorage, Alaska; and
26,915A	Fairbanks, Alaska
26,915B	Kenai, Alaska
26,915C	North Slope, Alaska
26,916	Halliburton Services, Elkview, West Virginia; and
26,916A	Weston, West Virginia
26,917	Halliburton Services, Artesia, New Mexico; and
26,917A	Farmington, New Mexico
26,918	Halliburton Services, Bossier City, Louisiana; and
26,918A	Cameron, Louisiana
26,918B	Dulac, Louisiana
26,918C	Fourchon, Louisiana
26,918D	Grand Isle, Louisiana
26,918E	Harvey, Louisiana
26,918F	Haynesville, Louisiana
26,918G	Houma, Louisiana
26,918H	Intracoastal City, Louisiana
26,918I	Lake Charles, Louisiana
26,918K	New Orleans, Louisiana
26,918L	Shreveport, Louisiana
26,918M	Venice, Louisiana
26,918N	Theodore, Alabama
26,918O	Tuscaloosa, Alabama
26,919	Halliburton Services, Kalkaska, Michigan; and
26,919A	Mt. Pleasant, Michigan
26,920	Halliburton Services, Helenwood, Tennessee
26,922	Halliburton Services, El Dorado, Kansas; and
26,922A	Great Bend, Kansas
26,922B	Hays, Kansas
26,922C	Hugoton, Kansas
26,922D	Liberal, Kansas
26,922E	McPherson, Kansas
26,922F	Ness City, Kansas
26,922G	Oberlin, Kansas
26,922H	Pratt, Kansas
26,922I	Wichita, Kansas
26,922J	Winfield, Kansas
26,923	Halliburton Services, Fort Smith, Arkansas

TA-W	Firm and location
26,924	Halliburton Services, Duncan, Oklahoma; and
26,924A	Ardmore, Oklahoma
26,924B	Bristow, Oklahoma
26,924C	Burns Flat, Oklahoma
26,924D	Enid, Oklahoma
26,924F	Pauls Valley, Oklahoma
26,924G	Tulsa, Oklahoma
26,924H	Wilburton, Oklahoma
26,924I	Woodward, Oklahoma
26,925	Halliburton Services, Brighton, Colorado; and
26,925A	Denver, Colorado
26,925B	Lamar, Colorado
26,925C	Sterling, Colorado
26,926	Halliburton Services, Cortland, Ohio; and
26,926A	Wooster, Ohio
26,926B	Zanesville, Ohio
26,927	Halliburton Services, Indiana, Pennsylvania; and
26,927A	Pittsburgh, Pennsylvania
26,928	Halliburton Services, Jackson, Mississippi; and
26,928A	Laurel, Mississippi
26,928B	Natchez, Mississippi
26,929	Halliburton Services, Amarillo, Texas; and
26,929B	Andrews, Texas
26,929C	Beaumont, Texas
26,929D	Brownfield, Texas
26,929E	Caldwell, Texas
26,929F	Dallas, Texas
26,929G	Dumas, Texas
26,929H	Freeport, Texas
26,929I	Ft. Worth, Texas
26,929J	Gainesville, Texas
26,929K	Harbor Island, Texas
26,929L	Jacksboro, Texas
26,929M	Kilgore, Texas
26,929N	Midland, Texas
26,929O	Monahans, Texas
26,929P	Odessa, Texas
26,929Q	Palestine, Texas
26,929R	Pampa, Texas
26,929S	Perryton, Texas
26,929T	Sabine Pass, Texas
26,929U	San Antonio, Texas
26,929V	Snyder, Texas
26,929W	Sonora, Texas
26,929X	Tyler, Texas
26,930	Halliburton Services, Cutbank, Montana
26,931	Halliburton Services, Flora, Illinois
26,932	Halliburton Services, Vernal, Utah
26,933	Halliburton Services, Paintsville, Kentucky
26,934	Halliburton Services, Felda, Florida
26,937	Halliburton Services, Evanston, Wyoming; and
26,937A	Gillette, Wyoming
26,937B	Rock Springs, Wyoming
26,937C	Worland, Wyoming
26,938	Halliburton Services, Avenal, California; and
26,938A	Bakersfield, California
26,938B	Coso Junction, California
26,938C	El Centro, California
26,938D	Middleton, California
26,938E	Oxnard, California
26,938F	Santa Fe Springs, California
26,938G	West Kern, California
26,938H	Woodland, California
26,940	Halliburton Services, Ardmore, Oklahoma
26,953	Teledyne Exploration Company, Houston, Texas
26,958	The Anschutz Corporation, Denver, Colorado
27,048	Leede Exploration, Englewood, Colorado

And further * * *

All workers of Halliburton Services in the below cited locations who became totally or partially separated from employment on or after June 23, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974:

TA-W	Firm and location
	Halliburton Services at:
26,917B	Hobbs, New Mexico
26,918J	Morgan City, Louisiana
26,924E	Oklahoma City, Oklahoma
26,939	Billings, Montana

And further * * *

All workers of Schlumberger Well Services in the below cited locations who became totally or partially separated from employment on or after August 23, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974:

TA-W	Firm and location
26,821	Schlumberger Well Services, Corpus Christi, Texas; and
26,821A	Laredo, Texas
26,821B	Pleasanton, Texas
26,821C	Victoria, Texas
26,821D	Wharton, Texas
26,822	Schlumberger Well Services, Alice, Texas

Signed in Washington, DC, the day of 6th May 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-12052 Filed 5-21-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,530]

Cole Hersee Co., South Boston, MA; Affirmative Determination Regarding Application for Reconsideration

On March 24, 1992, Local #262 of the United Electrical Workers (UE) requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on February 27, 1992 and published in the **Federal Register** on March 6, 1992, (57 FR 8157).

Its claimed, among other things, that the Department should have conducted a customer survey since sales declined in 1991 compared to 1990.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 8th day of May 1992.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-12053 Filed 5-21-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,594]

Dana Corp.; Fogelsville, PA; Negative Determination on Remand

By order dated March 20, 1992, the United States Court of International Trade (USCIT) in *Former Employees of Dana Corporation* v. *Secretary of Labor* (USCIT) 92-02-00087) remanded this case to the Department for further investigation.

Investigation findings show that the workers at Dana warehouse in Fogelsville do not produce an article within the meaning of section 223(3) of the Trade Act. The Department's initial notice of negative determination stated that the warehouse workers may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to the subject firm by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and the reduction must directly relate to the product impacted by imports. These conditions were not met for workers at Dana's warehouse in Fogelsville.

New findings on remand show that the products distributed through Fogelsville were exclusively automotive aftermarket and industrial products. Other findings on remand show that Dana has workers in only two plants who are certified eligible to apply for adjustment assistance and neither makes products for the aftermarket.

Workers at Dana's Syracuse, New York plant produce universal joints for original equipment manufacturers and were issued a certification on July 15, 1991 (TA-W-25,836). Workers at Dana's Reading, Pennsylvania plant produce automotive chassis for original equipment manufacturers and were issued a certification on July 30, 1991 (TA-W-25,862). The Fogelsville warehouse did not distribute products made by Dana's Syracuse or Reading plants. Accordingly, the activities at Fogelsville do not provide a basis for

certification under the Trade Act of 1974.

Dana closed its Fogelsville warehouse in order to restructure its distribution network. Most of the warehousing was transferred to Indianapolis, Indiana in May, 1991. The findings show that Dana could eliminate the expense at Fogelsville and service its northeast customers as efficiently from Indianapolis, Indiana and Athens, Georgia.

Conclusion

After reconsideration, I affirm the original notice of negative determination to apply for adjustment assistance to former workers of Dana Corporation, Fogelsville, Pennsylvania.

Signed at Washington, DC, this 11th day of May 1992.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-12054 Filed 5-21-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26, 273]

International Drilling Fluids Williston, ND; Revised Determination on Reconsideration

Pursuant to a court remand in *Former Employees of International Drilling Fluids* v. *Secretary of Labor* (USCIT 92-01-00920), the Department is revising its initial denial of eligibility to workers of International Drilling Fluids, Inc., (IDF) in Williston, North Dakota.

The Department took a voluntary remand in order to obtain additional information on the activities of the IDF workers at the drilling site.

New findings on reconsideration show that the IDF workers are an integral part of the drilling process for crude oil and natural gas. Their activities fall within the drilling and exploration requirements necessary for certification. The IDF workers monitor the insertion of the drilling muds, analyze samples and recommend to the drilling crews what adjustments should be made to the drilling muds.

The Williston facility was shut down and all workers at Williston were laid off in July, 1991.

U.S. imports of crude oil increased absolutely and relative to domestic shipments in the first 10 months of 1990 compared to the same period in 1989.

Conclusion

After careful review of the additional facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with crude oil for which drilling services were performed by workers of International Drilling Fluids in Williston, North Dakota contributed importantly to the decline in sales or production and to the total or partial separation of workers at International Drilling Fluids in Williston, North Dakota. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination.

All workers of International Drilling Fluids, Williston, North Dakota who became totally or partially separated from employment on or after August 5, 1990 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of May 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 92-12055 Filed 5-21-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,844]

Somerset Technologies, Somerset, NJ; Negative Determination Regarding Application for Reconsideration

By an application dated April 23, 1992, Local 329 of the International Association of Machinists (IAM) requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on April 10, 1992 and was published in the **Federal Register** on April 27, 1992 (57 FR 15331).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union states that the subject firm has purchased machines from Europe similar to the ones which are produced in New Jersey. It also claimed that the Graphic Arts product line was sold to an Austrian firm which will give royalties to the subject firm for all book presses sold in this country or overseas.

The Department's denial was based on the fact that the increased import criterion of the Group Eligibility Requirements of the Trade was not met. U.S. imports of paper industry machinery declined absolutely and relative to domestic shipments in 1991 compared to 1990.

Investigation findings show that the subject firm imported two machines for its lab in New Jersey. Company officials indicated that there were no worker separations as the result of this transaction.

Other findings show that the sale of the Graphic Arts product line to an Austrian firm occurred after the Department's investigation. Company officials indicated that there were no worker separations as the result of the sale since there were no orders, as yet, for the equipment.

Company officials indicated that worker separations at Somerset, New Jersey were the result of the on-going recession in the capital goods market.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 7th day of May 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 92-12056 Filed 5-21-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27,093]

Sunset Mud Co., San Angelo, TX; Affirmative Determination Regarding Application for Reconsideration

By a letter postmarked May 4, 1992, one of the petitioners requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on April 16, 1992 and published in the **Federal Register** on April 27, 1992, (57 FR 15331).

It claimed that the Department was inconsistent in its determinations since workers in other oil field service companies that performed the same services as Sunset were certified.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify

reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 8th day of May 1992.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-12057 Filed 5-21-92; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

Petition for Modification; Correction

In the Federal Register publication dated May 12, 1992, (57 FR 20302 and 20303) a petition for modification for Eastern Associated Coal Corporation, Harris No. 2 Mine was inadvertently assigned two separate docket numbers, M-92-39-C and M-92-47-C. The correct docket number is M-92-39-C.

Dated: May 18, 1992.

Patricia W. Silvey,

Director, Office of Standards Regulations and Variances.

[FR Doc. 92-12058 Filed 5-21-92; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefits Administration

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, two public meetings of the Working Group on Individual Participant Rights of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m., Monday, June 29, 1992, in Suite S-4215 AB, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Individual Participant Rights Working Group was formed by the Advisory Council to study issues relating to Individual Participant Rights for employee benefit plans covered by ERISA.

The purpose of the June 29 meeting is to discuss public issues related to the Working Group's mission, including testimony received and possible recommendations to be made to the Secretary of Labor. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit a written request on or before June 22, 1992 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N-5677. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 22, 1992.

Signed at Washington, DC, this 19th day of May, 1992.

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92-12059 Filed 5-21-92; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Health Care of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 12 Noon, Monday, June 29, 1992, in Suite S-4215 AB, U.S. Department of Labor Building, Third and Constitution Avenue NW., Washington, DC 20210.

This Health Care Working Group was formed by the Advisory Council to study issues relating to Health Care for employee benefit plans covered by ERISA.

The purpose of the June 29 meeting is to take testimony from expert witnesses regarding a Health Research study of the Urban Institute and Rand Corporation, commissioned by the Department of Labor, on the effects of "Pay or Play" legislative health care reform proposals on access and cost. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit written request on or before June 22, 1992 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N-5677. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 22, 1992.

Signed at Washington, DC, this 19th day of May, 1992.

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92-12060 Filed 5-21-92; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Pension Coverage and Adequacy of the Advisory Council on Employee Welfare and Pension Benefits Plans will be held at 2:30 p.m., Monday, June 29, 1992, in suite S-4215 AB, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Pension Coverage and Adequacy Working Group was formed by the Advisory Council to study issues relating to Pension Coverage and Adequacy for employee benefit plans covered by ERISA.

The purpose of the June 29 meeting is to discuss the testimony of the expert witnesses who have testified before the Group regarding the trend in decline in participation in defined benefit plans, and the shift toward defined contribution plans, and the effect of this trend on pension coverage and adequacy. The Working Group will also take testimony and/or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit written request on or before June 22, 1992 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N-5677. Oral presentations will be limited to ten minute, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 22, 1992.

Signed at Washington, DC This 19th day of May, 1992.

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92-12061 Filed 5-21-92; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Pension Investment Activity of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:00 a.m., Tuesday June 30, 1992, in suite S-4215, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Pension Investment Activity Working Group was formed by the Advisory Council to study issues relating to Pension Investment Activity for employee benefit plans covered by ERISA.

The purpose of the June 30 meeting is to hear testimony from several experts in the field of economically targeted investments. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working group should submit written request on or before June 22, 1992 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N-5677. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 22, 1992.

Signed at Washington, DC This 19th day of May, 1992

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92-12062 Filed 5-21-92; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Tuesday, June 30, 1992, in suite S-4215 AB, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

The purpose of the Seventy-Sixth meeting of the Secretary's ERISA Advisory Council which will begin at 12:30 p.m., is to hear status reports and provide input to each of the Council's work group i.e., Individual Participant Rights; Health Care; Pension Investment Activity; Pension Coverage & Adequacy, and to invite public comment on any aspect of the administration of ERISA.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before June 22, to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N-5677, 200 Constitution Avenue, NW. Washington, DC 20210. Individuals, or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 523-8753. Oral presentation will be limited to ten minutes, but an extended statement may be submitted for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 22, 1992.

Signed at Washington, DC this 19th day of May, 1992

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92-12063 Filed 5-21-92; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Dance Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Choreographers' Fellowships Section) to the National Council on the Arts will be held on June 15-16, 1992 from 9 a.m.-8:30 p.m., June 17 from 9 a.m.-9 p.m., June 18 from 9 a.m.-8:30 p.m., and June 19 from 9 a.m.-6 p.m. in room M-07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 19 from 3 p.m.-6 p.m. The topic will be policy discussion.

The remaining portions of this meeting on June 15-16 from 9 a.m.-8:30 p.m., June 17 from 9 a.m.-9 p.m., June 18 from 9 a.m.-8:30 p.m., and June 19 from 9 a.m.-3 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: May 13, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-12009 Filed 5-21-92; 8:45 am]

BILLING CODE 7537-01-M

Dance Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Choreographers' Fellowships Prescreening Section) to the National Council on the Arts will be held on June 11–12, 1992 from 9 a.m.-8 p.m. and June 13 from 9 a.m.-4 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendations on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 13, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92–12010 Filed 5–21–92; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for International Programs; Notice of Amendment

The meeting of the Advisory Committee for International Programs scheduled to be held on May 28–29, 1992, at the National Science Foundation in Washington, DC has been cancelled. No new dates have yet been established.

The notice for this meeting originally appeared in the May 7, 1992 issue of the Federal Register, Vol. 57, No. 89, p. 19648.

Dated: May 18, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–11988 Filed 5–21–92; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Planning and Procedures; Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on June 3, 1992, room P–422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance, with the exception of a portion that will be closed to discuss the qualifications of candidates nominated for appointment to the ACRS. This session will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

The agenda for the subject meeting shall be as follows:

Wednesday, June 3, 1992—1 p.m. until 4 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. Qualifications of candidates nominated for appointment to the ACRS will also be discussed.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Mr. Raymond F. Fraley (telephone 301/492–4516) between 7:30 a.m. and 4:15 p.m., e.s.t. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: May 14, 1992.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 92–12088 Filed 5–21–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–250 AND 50–251]

Florida Power and Light Co.; Withdrawal of Application for Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Florida Power and Light Company (the licensee) to withdraw its April 3, 1991 application for proposed amendments to Facility Operating Licensing Nos. DPR–31 and DPR–41 for the Turkey Point Plant, Unit Nos. 3 and 4, located in Dade County, Florida.

The proposed amendments would have revised the Technical Specifications by providing additional operational margins associated with departure from nucleate boiling related parameters.

The Commission has previously issued a Notice of Consideration of Issuance of Amendments published in the Federal Register on May 19, 1991 (56 FR 22467). However, by letter dated May 8, 1992, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendments dated April 3, 1991, and the licensee's letter dated May 8, 1992, which withdrew the application for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and Florida International University, University Park, Miami, Florida 33199.

Dated at Rockville, Maryland this 18th day of May, 1992.

For the Nuclear Regulatory Commission.

L. Raghavan,

Acting Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–12087 Filed 5–21–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–260]

Tennessee Valley Authority; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–52 issued to the Tennessee Valley Authority (the licensee) for operation of

the Browns Ferry Nuclear Plant Unit 2 located in Limestone County, Alabama.

The proposed amendment would revise Technical Specifications Table 3.2.C and Technical Specification 3.5.K/4.5.K to allow continued power operation when the Rod Block Monitor (RBM) is inoperable and the Minimum Critical Power Ratio (MCPR) is within specified limits. Technical Specification Bases section 3.2 would also be revised to describe the basis for the proposed change. The proposed amendment is a temporary change which will expire at the end of the current Browns Ferry limit 2 fuel cycle.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not cause a significant increase in the probability or consequences of an accident previously evaluated.

The purpose of the Rod Block Monitor (RBM) system is to ensure that the Minimum Critical Power Ratio (MCPR) does not decrease below the fuel integrity safety limit during a rod withdrawal error event. The RBM accomplishes this by terminating an erroneous rod withdrawal event which could be in progress due to a human error. Since the RBM is designed to intervene after an error is already in progress, rather than to prevent the error, the probability of such an error being committed is not affected by this amendment. MCPR is required to be verified within the allowable range whenever reactor power is greater than or equal to 25 percent and following any change in power level or distribution which could cause operation on a thermal hydraulic limit. This amendment allows rod withdrawal operations with both RBM channels inoperable only when restrictive limits for MCPR are met. Since the proposed amendment only changes the range of allowable values for MCPR rather than changing the monitoring requirements, it does not increase the probability of an administrative error that could cause the MCPR to be violated. As shown by study GE-NE-770-06-392, when the core is operated within the limits for MCPR specified in the proposed amendment, if an erroneous rod withdrawal were to occur, the MCPR would not decrease below the allowable safety limit even without the intervention of the RBM. The higher MCPR requirements specified by the proposed amendment for operations without an operable RBM are within previously analyzed operating MCPR limits and thus are conservative for all other analyzed accidents and transients as well. For the above reasons, this amendment will not cause a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment substitutes more restrictive administrative MCPR limits during rod withdrawals when RBM is inoperable to ensure that the automatic function of the RBM will not be required. No single administrative error could lead to a failure to adequately monitor MCPR and also to a rod withdrawal error, therefore a new failure mode related to administrative requirements is not created. The proposed amendment does not cause or allow any alteration to any release barrier, protection system, or accident mitigation system other than the RBM as discussed above. The plant is not subjected to any new operating modes or environmental conditions as a result of the proposed amendment.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

The RBM trip functions are designed to prevent local fuel damage as a result of a single rod withdrawal error. The proposed amendment allows the substitution of administrative limits for MCPR to ensure that rod motion will not have to be halted to prevent local fuel damage for a single rod withdrawal error. As shown by GE study GE-NE-770-06-0392, a postulated single rod withdrawal error under the provisions specified under this amendment would provide protection which is not significantly less than that which would be provided by the RBM. The MCPR requirements specified by the proposed amendment are within the allowable MCPR limits for normal plant operations therefore, analyses of events other than rod withdrawal errors are not adversely affected.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (30) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Directives Review Branch, Division of Freedom and Information and Publication Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing requests for hearing and petitions for leave to intervene is discussed below.

By June 22, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Athens Public Library, South Street, Athens, Alabama 35611. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the

petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above data. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Project Directorate II-4: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714 (a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 13, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Athens Public Library, South Street, Athens, Alabama 35611.

Dated at Rockville, Maryland, this 18th day of May 1991.

For The Nuclear Regulatory Commission.

Joseph F. Williams,

Project Manager, Project Directorate II-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-12086 Filed 5-21-92; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-18710; International Series Release No. 388; File No. 812-7769]

Citibank, N.A.; Application

May 15, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Citibank, N.A.

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from section 17(f) of the 1940 Act and rule 17f-5 thereunder.

SUMMARY OF APPLICATION: Applicant seeks an order (i) amending certain conditions of prior orders granting exemptive relief from section 17(f) so as to modify the terms of the custody arrangements required by those prior orders and (ii) permitting Applicant to maintain the securities of certain registered investment companies for which Applicant serves as custodian or subcustodian with six additional foreign subsidiaries of Applicant's bank holding company parent, Citicorp, subject to the conditions set forth below.

FILING DATES: The applicant was filed on August 7, 1991 and amended and restated applications were filed on November 29, 1991, and March 26, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 9, 1992, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Citibank, N.A., c/o Caroline F. Marks, Esq., FITS-Legal, 55 Wall Stret, 2nd Floor, New York, New York 10043.

FOR FURTHER INFORMATION CONTACT: H.R. Hallock, Jr., Special Counsel, at (202) 272–3030, or Barry D. Miller, Senior Special Counsel, at (202) 272–3018 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. The SEC issued an order on March 11, 1987 (Investment Company Act Release No. 15617) granting Applicant a conditional exemption from section 17(f) of the 1940 Act to, among other things, permit it as custodian or subcustodian to maintain securities of any registered management investment company other than an investment company registered under section 7(d) of the 1940 Act ("U.S. Investment Company") with fifteen foreign subsidiaries of Citicorp that did not meet the minimum shareholders' equity requirements of rule 17f–5 under the 1940 Act (the "Foreign Subsidiaries"). On February 28, 1990, the SEC issued an order (Investment Company Act Release No. 17360) granting an exemption from section 17(f) to permit Applicant to maintain securities of U.S. Investment Companies with three additional Foreign Subsidiaries. These two orders (the "Existing Orders") require, as a condition, that securities be maintained in the custody of a Foreign Subsidiary only in accordance with an agreement (the "Exemption Agreement"), among (i) the U.S. Investment Company or custodian for which Applicant acts as custodian or subcustodian, (ii) Applicant, (iii) the Foreign Subsidiary, and (iv) Citicorp.

2. Applicant seeks an order amending the Existing Orders to eliminate the requirement that each Foreign Subsidiary be a signatory to an Exemption Agreement with each U.S. Investment Company participating in the Applicant's global custody network. Instead, the requested exemption would provide that securities will be maintained in the custody of the Foreign Subsidiaries only in accordance with a custody agreement (a "Custody Agreement") among (i) the U.S. Investment Company or custodian for which Applicant acts as custodian or subcustodian, (ii) Applicant, and (iii) Citicorp. The Custody Agreement would contain the provisions specified in condition 2 below. These provisions are substantially identical to the provisions of the comparable condition in the two Existing Orders, except for the fact that the Foreign Subsidiaries would not be parties to the Custody Agreement.

3. Applicant also will enter into an amendment to the existing subcustodian agreements or enter into new subcustodian agreements (each, a "Subcustodian Agreement") with each Foreign Subsidiary pursuant to which Applicant has delegated such of Applicant's duties as would be necessary to permit the Foreign Subsidiary to hold in custody the securities of a U.S. Investment Company. The Subcustodian Agreement would explicitly provide that U.S. Investment Companies that have entered into a Custody Agreement with Applicant would be entitled to enforce the terms of the Subcustodian Agreement and are entitled to seek relief directly against the Foreign Subsidiary. See condition 3 below.

4. As required by the conditions of the Existing Orders, Citicorp has issued a guarantee (the "Guarantee") for losses resulting from the bankruptcy or insolvency of each Foreign Subsidiary covered by the Existing Orders. The dollar value of the Guarantee applicable to each such Foreign Subsidiary equals or exceeds the market value of U.S. Investment Company assets held in custody by the Foreign Subsidiary, calculated at the close of the previous calendar quarter by either Applicant or the Foreign Subsidiary. If the value of U.S. Investment Company assets is calculated by the Foreign Subsidiary, the Foreign Subsidiary will submit to Applicant its calculation, and the basis on which it was made, and Applicant will be entitled reasonably to rely on the Foreign Subsidiary's valuation. Under the proposed arrangement, the Custody Agreement will provide that Citicorp would be liable for losses resulting from the bankruptcy or insolvency of a Foreign Subsidiary in accordance with the terms of the Guarantee that currently is in effect under the Existing Orders. See conditions 2 and 5 below.

5. Applicant also seeks exemptive relief from section 17(f) of the 1940 Act to permit it as custodian or subcustodian to maintain securities of U.S. Investment Companies and their custodians in the custody of the following named subsidiaries of Applicant's bank holding company parent, Citicorp, located in the foreign countries indicated: Banco de Honduras S.A. (Honduras); Citibank Budapest Rt. (Hungary); Citibank-Maghreb (Morocco); Citibank (Trinidad & Tobago) Limited (Trinidad); Sociedad Fiduciaria Internacional, S.A. (now renamed Cititrust Colombia S.A. Sociedad Fiduciaria) (Columbia); and Citibank (Poland) S.A. (Poland). Thus, the requested exemption would apply to 22 Foreign Subsidiaries—the six Foreign Subsidiaries identified above and 16 Foreign Subsidiaries covered by the Existing Orders.[1]

6. The exemption with respect to the six additional Foreign Subsidiaries is being sought because at the time such Foreign Subsidiaries become part of Applicant's global custody network offered to U.S. Investment Company clients, they may not satisfy the $100 million shareholders' equity requirement contained in rule 17f–5 under the 1940 Act and therefore may not be eligible to act as foreign custodians for Applicant's U.S. Investment Company clients. These six Foreign Subsidiaries presently have shareholders' equity ranging in amount from about $1 million to about $37 million.

[1] Further exemptive relief to eliminate the requirement of an Exemptive Agreement is not requested for two of the 18 Foreign Subsidiaries that have received exemptions under the Existing Orders. One of these two Foreign Subsidiaries has been sold and the other has sufficient shareholders' equity to qualify independently as an eligible foreign custodian under rule 17f–5. The 16 existing Foreign Subsidiaries for which additional exemptive relief is being sought are as follows: Citibank (Austria) Aktiengesellschaft, Citibank (Channel Islands) Limited, Citibank OY, Citibank, S.A., Citicorp Investment Bank (Luxembourg) S.A., Citicorp Investment Bank (The Netherlands) N.V., Citibank A.S., Citicorp Investment Bank (Singapore) Limited, Citibank España S.A., Citibank AB, Citibank (Switzerland), Citibank (Zaire) S.A.R.L., Citibank Zambia Limited, Citicorp Nominees Pty. Limited, Citibank Nominees New Zealand Limited, and Citibank Portugal S.A.

Legal Analysis

1. Section 17(f) of the 1940 Act specifies the types of custodians generally required to be used by registered investment companies. Pursuant to the requirements of rule 17f–5 under the 1940 Act, investment companies are permitted to maintain foreign securities with certain foreign custodians. Paragraph (c)(2)(ii) of the rule provides, as here relevant, that foreign subsidiaries of U.S. banks or bank-holding companies with more than $100 million shareholders' equity qualify as "eligible foreign custodians" under the rule. Section 6(c) of the 1940 Act authorizes the SEC to issue conditional or unconditional orders granting exemptive relief from any provision of the 1940 Act or rules thereunder with respect to any person, security or transaction, or any class of persons, securities, or transactions, provided the exemption is determined to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Applicant believes that the terms of the proposed arrangement, whereby Custody and Subcustodian Agreements would replace the currently required Exemption Agreement, would adequately protect U.S. Investment Companies and their shareholders against loss. The substance of the Exemption Agreement would be fully incorporated in the Custody and Subcustodian Agreements. This would be a more efficient arrangement, since the protection afforded by Applicant would be confirmed to the U.S. Investment Company immediately upon execution of the Custody Agreement, rather than piecemeal through the time-consuming and onerous process of entering into separate Exemption Agreements with the various Foreign Subsidiaries as required by the Existing Orders.

3. Under the proposed custody arrangements, the U.S. Investment Companies would receive the same contractual protection that they receive under the Exemptive Agreement. Even though each U.S. Investment Company would enter into only a Custody Agreement with Applicant and Citicorp, and thus would not be in privity of contract with the Foreign Subsidiaries, it would have direct legal recourse against the Foreign Subsidiaries as a third party beneficiary of the Subcustodian Agreements. In this regard, most of the Subcustodian Agreements will be governed by New York law. Applicant asserts that it is well established under New York law that a third party beneficiary has the right to sue on a contract expressly made for its benefit. Furthermore, it does not matter whether a particular U.S. Investment Company or custodian is named in a contract, where the benefit is to be conferred generally on U.S. Investment Companies or their custodians that enter into Custody Agreements. For a third party to show that it was an intended beneficiary, it is sufficient to show that it was a member of the class of beneficiaries intended by the parties to the contract. *Vance* v. *Yonkers Contracting Co.*, 280 App. Div. 839 (1952), 113 N.Y.S.2d 733 91952). If a Subcustodian Agreement is not governed by New York law, but rather by the local law of the foreign jurisdiction in which the Foreign Subsidiary is located, Applicant will obtain an opinion of counsel from such foreign jurisdiction regarding the enforceability of a third party beneficiary clause in the Subcustodian Agreement under the laws of such foreign jurisdiction. In such a situation, the receipt of such an opinion will be an express condition for the use of a Foreign Subsidiary as a subcustodian of Applicant.

4. Each of the six additional Foreign Subsidiaries named above is a banking institution or trust company incorporated under the laws of a country other than the United States and regulated as such by that country's government or an agency thereof. Prior to the inclusion of any of such additional Foreign Subsidiaries in its global network offered to U.S. Investment Companies, Applicant will assure that each such Foreign Subsidiary is experienced, capable and well qualified to provide custody services to U.S. Investment Companies. Accordingly, under the foreign custody arrangements proposed, the protection of investors would not be diminished.

5. Applicant submits that the requested exemptive relief would ensure that investors will be adequately protected, while at the same time affording it a measure of flexibility in offering custodial services through any of the Foreign Subsidiaries named above, at such time as Applicant believes that it is qualified to provide such services, notwithstanding its shareholders' equity level. The concerns of the SEC that are addressed by the conditions in the Existing Orders would continue to be fully satisfied by the proposed amended conditions. Accordingly, Applicant believes that, as required by section 6(c) of the 1940 Act, the exemption requested is (i) necessary or appropriate in the public interest, (ii) consistent with the protection of investors, and (iii) consistent with the purposes fairly intended by the policy and provisions of the 1940 Act.

Applicant's Conditions

If the requested order is granted, Applicant agrees to following conditions:

1. The foreign custody arrangements proposed with respect to the Foreign Subsidiaries will satisfy the requirements of rule 17f-5 in all respects other than with regard to shareholders' equity.

2. Securities of U.S. Investment Companies will be maintained with a Foreign Subsidiary only in accordance with a Custody Agreement, required to remain in effect at all times during which any Foreign Subsidiary fails to satisfy all the requirements of rule 17f-5 relating to shareholders' equity, among (i) the U.S. Investment Companies or custodians for which Applicant serves as custodian or subcustodian, (ii) Applicant, and (iii) Citicorp. The Custody Agreement will provide that Applicant will act as the custodian or subcustodian, as the case may be, of the securities of the U.S. Investment Company and would be able to delegate its responsibilities to the Foreign Subsidiaries. The Custody Agreement would further provide that Applicant's delegation of duties to a Foreign Subsidiary would not relieve Applicant of any responsibility to the U.S. Investment Company or custodian for any loss due to such delegation except such loss as may result from (i) political risk (*e.g.*, exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife or armed hostilities) and (ii) other risks of loss for which neither Applicant nor the Foreign Subsidiary would be liable under rule 17f-5. The Custody Agreement also will provide that Citicorp would be liable, in accordance with the terms of the Guarantee, for losses resulting from the bankruptcy or insolvency of a Foreign Subsidiary.

3. Applicant will enter into a Subcustodian Agreement with each Foreign Subsidiary pursuant to which Applicant has delegated to the Foreign Subsidiary such of Applicant's duties and obligations as would be necessary to permit the Foreign Subsidiary to hold in custody, in the country in which it operates, the securities of the U.S. Investment Company or custodian. The Subcustodian Agreement will provide an acknowledgement by the Foreign Subsidiary that it is acting as a foreign custodian for U.S. Investment

Companies pursuant to the terms of any order granting the exemptive relief requested by the application. The Subcustodian Agreement would also explicitly provide that U.S. Investment Companies or their custodians, as the case may be, that have entered into a Custody Agreement with Applicant would be entitled to enforce the terms of the Subcustodian Agreement and could seek relief directly against the Foreign Subsidiary so acting as foreign custodian or against Applicant.

4. Each Subcustodian Agreement will be governed by New York law; or, if any Subcustodian Agreement is governed by the local law of the foreign jurisdiction in which the Foreign Subsidiary is located, Applicant shall seek an opinion of counsel from such foreign jurisdiction opining as to the enforceability of the rights of a third party beneficiary under the laws of such foreign jurisdiction.

5. The dollar value of the Guarantee for each Foreign Subsidiary would be adjusted based on the quarterly fluctuation in the market value of U.S. Investment Company assets in the custody of such Foreign Subsidiary, as follows: The market value of U.S. Investment Company assets in the custody of each Foreign Subsidiary would be calculated by Applicant or such Foreign Subsidiary at the end of each calendar quarter. If it is determined that the market value of U.S. Investment Company assets in custody exceeds the Guarantee with respect to any Foreign Subsidiary, Applicant will, as soon as practicable but in no event later than 30 days after receipt of the quarterly valuation, cause the Guarantee to be increased so as to cover fully the value of U.S. Investment Company assets in custody with such Foreign Subsidiary, calculated as the end of the most recent quarterly report.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-12037 Filed 5-21-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18708; File No. 811-5326]

Colonial/Hancock Liberty Trust

May 15, 1992.

AGENCY: Securities and Exchange Commission (the "Commission").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Colonial/Hancock Liberty Trust ("Applicant").

RELEVANT 1940 ACT SECTION: Application filed pursuant to section 8(f) and rule 8f-1 thereunder.

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on February 24, 1992. An amended and restated application was filed on May 11, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 9, 1992, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Colonial/Hancock Liberty Trust, c/o Julian Daly, Vice President, Colonial Management Associates, Inc., One Financial Center, Boston, MA 02111.

FOR FURTHER INFORMATION CONTACT: Patrice M. Pitts, Attorney, (202) 272-3040, or Wendell M. Faria, Deputy Chief (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. On September 10, 1987, Applicant filed a notification of registration as an investment company on form N-8A, and a registration statement on form N-1A under the 1940 Act and the Securities Act of 1933 that was declared effective on April 19, 1988. The Applicant is a Massachusetts business trust in good standing, containing seven portfolios (the "Funds"): Money Market; Investment Grade Income; Aggressive Income; Asset Allocation; Growth and Income; Aggressive Growth; and Inflation Hedge.

2. The Applicant sold shares of its seven portfolios to corresponding subaccounts of the Colonial/Hancock Liberty Separate Account (the "Account"), which is registered as a unit investment trust under the 1940 Act. The Account, which is sponsored by John Hancock Mutal Life Insurance Company ("John Hancock"), serves as the funding medium for certain individual variable annuity contracts (the "Contracts") underwritten by John Hancock. Colonial Management Associates, Inc. ("Colonial") serves as the investment adviser to the Funds.

3. New sales of Contracts were suspended on May 15, 1991, and shortly thereafter, Contract owners were notified that it would be to their advantage to effect tax-free Contract exchanges or surrender their Contracts. As the Contracts were exchanged or surrendered, Applicant continued to process corresponding redemptions of Funds' shares. There is no contractural back-end load, redemption fee, or contingent deferred sales load.

4. After the Trustees of the Applicant adopted a plan of liquidation for the Applicant and the Account (on December 13, 1991), and after all Contract owners' interests in the Account were eliminated, Colonial and John Hancock withdrew seed money remaining in the Applicant's Money Market Fund. As of February 20, 1992, no assets remained in any of the Funds.

5. Applicant has no debts or other liabilities outstanding, is not a party to any litigation or administrative hearings and has no securityholders as of the Application filing date. Expenses incurred in connection with the liquidation of Fund shares were borne by each Fund, subject to voluntary expense limitations assumed by Colonial.

6. Applicant is not now engaged nor does it proposes to engage in any business activity other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-12033 Filed 5-21-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18711; 812-7767]

The PaineWebber Pathfinders Trust, et al.; Application

May 15, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The PaineWebber Pathfinders Trust, Treasury and Growth Fund Series 1 and subsequent series of the Treasury and Growth Fund Series of the Trust (the "Treasury and Growth Fund Series") and similar series of the PaineWebber Pathfinders Trust (collectively referred to as the "PaineWebber Pathfinders Trust" with each series referred to as a "Trust"); Mitchell Hutchins Asset Management ("Mitchell Hutchins"); PaineWebber Incorporated ("PaineWebber" or "Sponsor"); PaineWebber Investment Series, PaineWebber Olympus Fund, PaineWebber Atlas Fund, and any openend management investment company, including portfolios or series thereof, that may in the future be advised or have as a principal underwriter Mitchell Hutchins, PaineWebber or any of their affiliates as defined under the Act, other than a money market fund, on behalf of themselves and any series or portfolio thereof (collectively referred to as the "Funds").

RELEVANT ACT SECTIONS: Order requested (i) under section 6(c) granting exemptions from sections 12(d)(1) and 19(b) of the Act and rule 19b-1 thereunder; (ii) under section 17(d) and rule 17d–1 thereunder approving certain affiliated transactions; and (iii) under sections 11(a) and 11(c) of the Act permitting certain exchange transactions.

SUMMARY OF APPLICATION: Applicants seek an order: (a) To permit the Trusts to invest in portfolios consisting both of Class C shares of one of the Funds and zero-coupon obligations, (b) to permit the Trusts to distribute capital gains quarterly or with other periodic distributions of the Trust, and (c) to permit certain affiliated and exchange transactions.

FILING DATES: The application was filed on August 2, 1991 and amended on February 6, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 9, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants: PaineWebber Pathfinders Trust, 1200 Harbor Boulevard, Weehawken, New Jersey 07087; Mitchell Hutchins, PaineWebber, and the Funds, 1258 Avenue of the Americas, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Staff Attorney, at (202) 272–2190, or Barry D. Miller, Senior Special Counsel, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Sponsor, a registered investment adviser and broker-dealer, is a Delaware corporation and is the depositor of several series of unit investment trusts registered with the Commission. The Funds are open-end management investment companies registered under the Act. Each Fund is a series company within the meaning of rule 18f-2 under the Act and may issue two or more series of shares. Mitchell Hutchins serves as investment adviser to the Funds.

2. Applicants include subsequent series of the Treasury and Growth Fund Series of the Trust and similar series of the PaineWebber Pathfinders Trust. With respect to prospective relief sought on behalf of these future series, such relief shall be subject to the same terms and conditions set forth in the amended application.

3. Each Treasury and Growth Fund of the PaineWebber Pathfinders Trust will be registered as a separate unit investment trust under the Act and will be organized under the laws of the state of New York under a separate trust indenture (the "Indenture"). The Indenture for each Trust, which contains series specific information, will incorporate by reference the master trust agreement (the "Agreement"). Under the Agreement, PaineWebber will act as sponsor and an independent third party bank or trust company will act as trustee and evaluator ("Trustee" or "Evaluator") for certain of the securities described below. The Agreement will contain standard terms and conditions common to all Trusts. (The Agreement and the Indenture are collectively referred to as the "Trust Agreement.")

4. Under the Trust Agreement, the Sponsor will deposit with the Trustee securities with an aggregate value in excess of $100,000. The securities will consist of (a) stripped United States government obligations, and other forms of Zero-Coupon obligations including certificates of interest or receipts for or other evidences of an ownership interest thereof or other Zero-Coupon obligations purchased by the Sponsor from third parties, or contracts and funds for the purchase thereof (the "Zero-Coupon Obligations"), and (b) Class C shares of the Funds (collectively referred to as the "Securities").[1]

5. The Sponsor will purchase the Zero-Coupon Obligations to be deposited at the prevailing market price. As noted above, since the Trust also may hold contracts for the purchase of Zero-Coupon obligations, the Sponsor will be required to purchase such contracts from third parties, which contracts will be backed by an irrevocable letter of credit.

6. Class C shares of only one of the Funds would be sold at net asset value and without a sales charge for deposit in each Trust. Since Class C shares have no distribution plan pursuant to rule 12b–1, the Trusts will not incur a distribution fee. The Sponsor would select one of the Funds for deposit in a Trust. Factors such as the historical performance of the Fund, the nature of the underlying Fund portfolio, perceived areas of growth in certain markets, investor demand and credit market history, among other things, will be considered when choosing a particular Fund for deposit in a particular Trust.

7. The Zero-Coupon Obligations and Class C shares of the Funds will not be pledged or be in any other way subjected to any debt by the Trust at any time after their deposit in the Trust.

8. Simultaneously with the deposit of the Securities with the Trustee (the "Initial Date of Deposit"), the Trustee will deliver to the Sponsor all of the

[1] Applicants received an exemptive order permitting applicants to issue three classes of shares (classes A, B, and C) representing interests in the same portfolio of securities. Class A shares would be sold with a front-end sales load and with a rule 12b–1 fee providing for a service fee of up to .25% of the average daily net assets. Class B shares would be sold subject to a contingent deferred sales charge and a rule 12b–1 plan providing for a service fee of up to .25% and a distribution fee of up to .75% of the average daily net assets. Class C shares would be sold to certain parties, including certain unit investment trusts sponsored by PaineWebber, without either a sales charge or a rule 12b-1 fee. See PaineWebber America Fund, Inc., Investment Company Act Release Nos. 18084 (Apr. 9, 1991) (notice) and 18126 (May 1, 1991) (order).

registered Trust certificates or documentation in the form of a receipt for trust units ("Units") representing the entire ownership of the Trust. Following the deposit of Securities for each Trust, and following the declaration of effectiveness of the registration statement for the Units of that Trust under the Securities Act of 1933 and clearance by the blue sky authorities of the various States, the Sponsor will offer the Units of that Trust to the public.

9. On the Initial Date of Deposit, applicants will rely on a prior order (the "Prior Order") that granted applicants an exemption from sections 14(a) and 22(c) of the Act and rule 22c-1 thereunder.[2] Applicants received an exemption, contingent on the conditions described in the prior Order, from the provisions of section 14(a) that require a registered investment company, that has not previously made a public offering, to take for its own account or place with others $100,000 worth of its securities. The Prior Order also permits the Sponsor, subject to certain conditions, to sell Units pursuant to purchase orders received on the Initial Date of Deposit for that series at a public offering price based on the net asset value per Unit determined with reference to the values of the Securities at the close of the New York Stock Exchange on the preceding business day. During the initial public offering period following the Initial Date of Deposit, the Sponsor will sell Units at the public offering price that is determined as of the close of business on each business day based on the net asset value per Unit. The Unit's net asset value will be determined by (a) the current net asset value of the Class C shares of the Fund selected for deposit in the Trust plus (b) the offering side value of the Zero-Coupon Obligations contained therein, plus a sales charge. The sales charge will typically range from 1.5% to 6% of the public offering price.

10. The Trustee will serve as Evaluator for the Zero-Coupon Obligations and will be paid a nominal fee out of the Trust's assets with respect to assessing the daily value of the Zero-Coupon Obligations. The Trustee will determine the daily net asset value of the particular Fund underlying a Trust investment by contacting the Fund directly. No fee will be assessed for this service.

11. Each Trust will be structured so that it will contain a sufficient amount of Zero-Coupon Obligations to ensure that investors purchasing Units of the Trust on the Initial Date of Deposit would receive back $1.00 per Unit at maturity of the Trust, the approximate total amount of their original investment in the Trust, including the sales charge. The Zero-Coupon Obligations deposited in each Trust will have maturities coinciding with the maturity of the Trust and will be noncallable or callable at par. Thus, at maturity of a Trust, investors in that Trust who purchased on the Initial Date of Deposit would receive back the approximate principal amount of their original investment since the principal value of the maturing Zero-Coupon Obligations would approximately equal the original purchase price of the Units of the Trust.

12. With the deposit of the Securities on the Initial Date of Deposit, the Sponsor will have established a percentage relationship between the aggregate principal amounts of Zero-Coupon Obligations and the aggregate number of Class C shares of a Fund in the portfolio. The Sponsor will be permitted under the Agreement to deposit additional Securities resulting in a corresponding increase in the number of Units outstanding. Such Units may be continuously offered for sale to the public by means of the prospectus. Any additional Securities deposited in the Trust subsequent to the Initial Date of Deposit in connection with the sale of additional Units will maintain the original percentage relationship between the Zero-Coupon Obligations and Class C shares.

13. Each Trust will consist of the Securities, accrued and undistributed interest income and dividends, capital gains and undistributed principal, if any, and cash. The Trust's quarterly or other specified periodic distributions of such amounts, which will track the periodic distributions of the underlying Fund, will be paid in cash to unitholders. The Sponsor may make available to unitholders certain vehicles for reinvestment of Trust distributions during the life of the Trust which, if offered, will be described in the prospectus for the Trust. The Sponsor presently intends to offer a reinvestment option which includes reinvestment of Trust distributions into the Class A shares of the particular Fund whose shares comprise the Trust portfolio. Such reinvestment shares will be held by each investor individually, not by the Trust. Since the Class A shares of the Fund purchased through the reinvestment option described above will be held by each participating individual and not by the Trust, they (like all Fund shares held by individuals) will be subject to the 12b-1 fees, but will not be subject to a sales charge. The Sponsor may make available to unitholders certain reinvestment vehicles upon a Trust's maturity that will be described in the prospectus for such Trust (the "Termination Option"). Under the Termination Option, unitholders at the termination of the Trust will have the option of either (a) retaining their proportionate interest in the Class C shares of the Fund in a Trust as Class A shares of the same Fund, or (b) receiving a cash distribution. Any exchange of Class C shares for Class A shares will be made on the basis of the relative net asset values. Such unitholders will also have the option of either (a) reinvesting the proceeds of the Zero-Coupon Obligations in additional Class A shares of the Fund (without impositions of a sales charge) or (b) receiving a cash distribution.

14. After the completion of the initial public offering period, the Sponsor intends to maintain a secondary market for the Units, although it is not obligated to do so. In the absence of the availability of more favorable terms existing in the secondary market, any Unit tendered for redemption to the Trustee shall be redeemed by the Trustee. Subject to the payment of any applicable tax or other governmental charges which may be imposed thereon, such redemption is to be made by payment of the cash equivalent of the net asset value, determined as of the close of business on the date of tender multiplied by the number of Units tendered. The redemption price for Units in the secondary market will be based on the net asset value per Unit determined with reference to (a) the current net asset value of Class C shares of the Fund plus (b) the bid side value of the Zero-Coupon Obligations. No redemption fee will be assessed.

15. If the Sponsor does not maintain a secondary market or if the Sponsor redeems Units it holds in its inventory which were acquired in the secondary market, the Trustee may sell an amount of Class C shares of the Fund necessary to pay the requisite redemption amount. If, after redemptions, there are on deposit in the Trust an amount of Zero-Coupon Obligations in excess of the amounts needed to maintain $1.00 principal amount per outstanding Unit, the Trust Agreement authorizes the Trustee to sell such excess Zero-Coupon Obligations if necessary to raise cash for a future redemption payment. The Trust Agreement contains similar provisions in the case of sales to meet Trust expenses; however, the Sponsor anticipates that such sales will be

[2] See PaineWebber TAGS Trust, Investment Company Act Release Nos. 14380 (Feb. 7, 1985) (notice) and 14396 (Feb. 28, 1985) (order).

unlikely and that income from the Class C shares of the Fund will be sufficient to meet Trust expenses.

Applicant's Legal Analysis

1. Applicants seek an order pursuant to sections 11(a) and 11(c) of the Act approving the Termination Option, described above. Section 11(a) prohibits offers of exchange between open-end management investment companies that are made at other than net asset value unless permitted by rule or approved pursuant to an order. Section 11(c) makes section 11(a) applicable to all offers of exchange involving unit investment trust shares, regardless of the basis of exchange. Thus, exchange offers involving such shares require Commission approval even if made at net asset value. Applicants maintain that the intent of section 11 is to protect investors from switching and the consequent erosion of their equity. Applicants submit that the proposed transaction is constructed to alleviate these concerns. The Termination Option provides the unitholder with the flexibility of choosing to receive their proportionate interest in the Class C shares held by the Trust as Class A shares of the same Fund, or to receive a cash distribution. The exchange will be made on the basis of the respective net asset values of the Class C shares and the Class A shares.

2. Applicants assert that section 12(d)(1) of the Act is intended to prevent the duplication of fees and costs, undue concentration of control without a corresponding increase in commitment of capital, and other adverse consequences to investors incident to the pyramiding of investment companies. Applicants submit that their proposal is structured so as to eliminate such pyramiding of expenses and control problems, and that the unit investment trust format is uniquely adaptable to avoiding such conflicts. First, there will be no duplicative sales charges or distribution fees to investors in The PaineWebber Pathfinders Trust. The Class C shares of each of the Funds are normally sold without a sales charge, while the Class A shares of each of the Funds are normally sold with a front-end sales charge. The Funds, however, will sell Class C shares to each Trust and Class A shares to unitholders, in connection with the termination of the Trust, at net asset value without a sales charge.

3. Because a unit investment trust has an unmanaged portfolio, there will be no duplicative investment advisory fees charged as there would be when a mutual fund purchased shares of other mutual funds. There is no evaluation fee with respect to Class C shares of a Fund deposited in any Trust, since the price of such Fund shares is calculated daily and is readily available to the Trustee and Sponsor. Applicants believe that the costs and expenses of the administration and operation of both The PaineWebber Pathfinders Trust and the Fund should be reduced by the proposed arrangement for the reasons set forth above.

4. To address the concern about undue control over the fund resulting from the concentration of voting power in a fund holding company or from the threat of large redemptions, applicants have agreed as a condition to the requested order that the voting of the shares of a Fund which are held by a Trust will be performed by the Trustee, and the Trustee must vote all Class C shares of the Fund held in each Trust in the same proportion as all other shares of that Fund, which are not held by the Trust, are voted. Furthermore, the Agreement governing all Trusts provides that if the Class C shares of the Fund were to be voted separately, the Trustee must vote all Class C shares of the Fund held in each Trust in the same proportion as all other Class C shares of that Fund, which are not held by the Trust, are voted.

5. Applicants believe that the threat of large-scale redemptions is alleviated by agreeing to conditions: (a) Permitting the Trustee to sell Class C shares of the Fund only when necessary to meet redemptions or in the unlikely event that distributions from the Fund are insufficient to meet Trustee expenses, (b) limiting the amount of any one Fund's shares that may be deposited into a Trust, and (c) requiring applicants to structure the Trust's maturity dates at least 30 days apart from one another. In addition, the Trustee and the Sponsor will not have any discretionary authority to determine when Class C shares of the underlying Fund are to be sold and will not have the ability to substitute shares of another Fund for those deposited in the Trust.

6. Applicants state that their proposal as described above could constitute a joint transaction under section 17(d) and rule 17d–1 among the Funds, the Trust, and various affiliates of the Funds and Trust. Applicants state that their proposal addresses potential section 17(d) and rule 17d–1 concerns. There will be no duplication of sales charges since the Trusts will acquire Class C shares of a Fund. Also, there will be no overlap of fees for managing the portfolio since there is no management fee at the Trust level and because the Sponsor, recognizing that the price of the Funds' shares can be easily obtained from an affiliate, has structured the Trust without an evaluation fee for the Class C shares. Applicants believe the Funds will benefit from the economies of scale that will result from the sale of additional shares. The Funds will be protected against any abusive control problems and against any problems resulting from large redemptions due to the measures described above. Therefore, applicants believe that neither the Funds nor the PaineWebber Pathfinders Trust will be disadvantaged by the arrangement and each stands to benefit from the proposed transaction. Accordingly, applicants conclude that the arrangements are consistent with the provisions, policies and purposes of the Act and that participation by any participant is not on a basis different from or less advantageous than that of any other participant.

7. Section 19(b) of the Act and rule 19b–1 thereunder generally prohibit a registered investment company from distributing capital gains more often than once a year. Rule 19b–1 contains two exceptions for unit investment trusts from the above prohibition. First, rule 19b–1 subparagraph (b) enables a unit investment trust to distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt. Since the PaineWebber Pathfinders Trust may receive capital gains from redeeming shares of a Fund, in addition to any capital gains received from a Fund, it does not qualify for the exception. Second, rule 19b–1 subparagraph (c) excludes a unit investment trust investing in "eligible trust securities" from the prohibitions of rule 19b–1 as long as certain conditions are met. The PaineWebber Pathfinders Trust does not qualify for this exception because it does not limit its investments to "eligible trust securities."

8. Although applicants do not qualify for the exceptions, applicants contend that the dangers which section 19(b) and rule 19b–1 are designed to prevent do not exist in the PaineWebber Pathfinders Trust. The purposes of section 19(b) and rule 19b–1 are to eliminate manipulative capital gains distributions and confusion created by a failure to distinguish between distributions of income and capital gains. In the present arrangement, any capital gains for the redemption of Fund shares would occur only as a result of the need to meet Trust expenses or by requests to redeem Units, events over which the Sponsor and the trust have no control. Cash generated from redemption of Fund shares will be used

to pay expenses and redemptions and will not generate distributions to unitholders unless such cash is in excess of such expense and redemption amounts. Although the Sponsor does have control over the actual redemption of Units to the extent it makes a market in Units, it has no incentive to redeem or permit the redemption of Units to generate capital gains in order to controvert section 19(b) and rule 19b–1.

9. Because principal distributions are clearly indicated in accompanying reports to unitholders as a return of principal and are relatively small in comparison to normal dividend distributions, there is little danger of confusion from failure to differentiate among distributions. Based on these reasons, and because applicants will comply in all other respects with section 19(b) and rule 19b–1, applicants believe that exemptive relief would be consistent with the purposes and policies of the Act and in the best interests of the unitholders.

Applicants' Conditions

Applicants agree to the following as conditions to the requested order:

1. The Trustee will not redeem Fund shares except to the extent necessary to meet redemption of Units or to pay Trust expenses should distributions received on Fund shares prove insufficient to cover such expenses. Zero-Coupon Obligations also will not be sold, except that those in excess of the amount needed to maintain the $1.00 principal amount per Unit, if any, may be sold to meet Trust expenses and redemptions.

2. No one Trust will, at the time of any deposit of any Fund shares, hold as a result of that deposit more than 10 percent of the then outstanding shares of a Fund.

3. All Trusts will be structured so that their maturity dates will be at least thirty days apart from one another.

4. Shares of a Fund which are held in a Trust will be voted by the Trustee, and the Trustee will vote all Fund shares held in a Trust, in the same proportion as all shares of that Fund not held by the Trust are voted.

5. Any shares of the Funds deposited in any Trust or any shares acquired by unitholders through reinvestment of dividends of distributions or through reinvestment at termination will be made without imposition of any otherwise applicable sales load and at net asset value.

6. The prospectus of each Trust and any sales literature or advertising that mentions that existence of a reinvestment option or Termination Option will disclose that shareholders who elect to invest in Class A shares will incur a rule 12b–1 fee.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–12032 Filed 5–21–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18709; 811–4485]

Santa Barbara Fund; Application for Deregistration

May 15, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Santa Barbara Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on February 6, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 10, 1992 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o Sheldon M. Jaffe, Esq., 12100 Wilshire Blvd., 15th Floor, Los Angeles, CA 90025.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504–2263, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, initially known as the Takeover Stock Fund, is organized as a Massachusetts business trust and is registered as an open-end diversified management investment company under the Act. On November 22, 1985, applicant filed a notification of registration on form N–8A. On the same date, applicant filed a registration statement on form N–1A under the Securities Act of 1933. Applicant's registration statement was declared effective on May 20, 1986, and its initial public offering commenced on the same date.

2. In October 1987, upon learning it was under investigation by the SEC, applicant determined to cease doing business and began winding up its affairs. In early October 1987, applicant liquidated its portfolio securities and invited its shareholders partially to redeem shares for cash in the amount of $10.75 per share. At that time, applicant estimated its net asset value per share to be $12.00. Ninety percent of applicant's shareholders participated in this partial redemption.

3. On April 13, 1988, the SEC filed a complaint for permanent injunction and other equitable relief against applicant in the U.S. District Court for the Central District of California. On that same date, applicant consented to the entry of an injunction. *SEC* v. *The Santa Barabara Fund*, No. 88–02008 (C. D. Cal. 1988).

4. Since the entry of the injunction, all of applicant's disbursements have been made pursuant to Court order. In addition, Coopers & Lybrand was engaged as accountants for applicant, and filed a special report concerning applicant's operations and status on or about June 14, 1988.

5. Between 1988 and September 1991, applicant settled the disgorgement obligation of its founder, Walter Jurek, located and sent the partial redemption described in paragraph two above to certain shareholders who did not respond to the initial distribution request, and otherwise wound up its affairs. Applicant also filed reports with the Court and the Los Angeles Regional Office of the SEC with respect to expenditures made by applicant and applicant's liquidation.

6. In September 1991, a court order was entered authorizing a final distribution to applicant's shareholders. Pursuant to that order, applicant distributed a final payment to shareholders of cash in the amount of $1.05 per share, bringing the total amount distributed to shareholders to $11.80, or approximately ninety-eight percent of the net asset value per share estimated in October 1987.

7. Legal, accounting, and transfer agency fees incurred in connection with

the liquidation have been paid out of applicant's assets. In addition, applicant's sole remaining assets, which consist of cash in the amount of $28,654.30, have been reserved to meet any further legal, accounting, and liquidation expenses.

8. As of the date of the application, applicant had no shareholders. Applicant is not presently engaged in, nor does it proposed to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-12034 Filed 5-21-92; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before June 22, 1992. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3RD Street, SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205-6629.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Record of Hotline Calls.

SBA Form No.: CO Form 266.

Frequency: On occasion.

Description of Respondents: Individuals contacting the Small Business Administrations Inspector General's Hotline.

Annual Responses: 44.

Annual Burden: 22.

Dated: May 15, 1992.

Cleo Verbillis,

Acting Chief, Administrative Information Branch.

[FR Doc. 92-12064 Filed 5-21-92; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2559]

California; Declaration of Disaster Loan Area

As a result of the President's major disaster desclaration on May 2, 1992, and pursuant to section 7(b) of the Small Business Act, I find that Los Angeles County in the State of California constitutes a disaster area as a result of damages caused by riots, civil disorders, and fires during the period of civil unrest beginning on April 29, 1992. Applications for loans for physical damage may be filed until the close of business on July 2, 1992, and for loans for economic injury until the close of business on February 2, 1993, at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853-4795, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the contiguous counties of Kern, Orange, San Bernardino, and Ventura in the State of California be filed until the specified date at the above location.

The interest rates are:

For physical damage:	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	6.500
Business and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	8.500

For Economic Injury:	Percent
Business and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 255915 and for economic injury the number is 762500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 15, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92-12065 Filed 5-21-92; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2560]

California; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on May 4, 1992, I find that Humboldt County in the State of California constitutes a disaster area as a result of damages caused by earthquakes and continuing aftershocks beginning on April 25, 1992 and continuing. Applications for loans for physical damage may be filed until the close of business on July 6, 1992, and for loans for economic injury until the close of business on February 4, 1993, at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853-4795, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the contiguous counties of Del Norte, Mendocino, Siskiyou, and Trinity in the State of California may be filed until the specified date at the above location.

The interest rates are:

For physical damage:	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	6.500
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	8.500

For economic injury:	Percent
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 256002 and for economic injury the number is 762600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 12, 1992.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 92-12066 Filed 5-21-92; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of San Francisco, will hold a public meeting at 10 a.m. on Friday, June 5, 1992, at 211 Main Street, 5th Floor, room 543, San Francisco, California, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Michael R. Howland, District Director, U.S. Small Business Administration, 211 Main Street, 4th Floor, San Francisco, California 94105-1988, (415) 744-6801.

Dated: May 12, 1992.

Caroline J. Beeson,

Assistant Administrator, Office of Advisory Councils.

[FR Doc. 92-12068 Filed 5-21-92; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council; Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Miami, will hold a public meeting from 11 a.m. to 3 p.m., on Tuesday, June 23, 1992, at the IRE Building, 6th floor Conference Room, 1320 South Dixie Highway, Coral Gables, Florida, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Charles E. Anderson, District Director, U.S. Small Business Administration, Miami District Office, 1320 South Dixie Highway, suite 501, Coral Gables, Florida 33146, (305) 536-5521.

Dated: May 12, 1992.

Caroline J. Beeson,

Assistant Administrator, Office of Advisory Councils.

[FR Doc. 92-12069 Filed 5-21-92; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council; Public Meeting

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Boston, will hold a public meeting at 10 a.m. on Tuesday, June 16, 1992, at the Thomas P. O'Neill Federal Building, 10 Causeway Street, Conference Room 262, Boston, Massachusetts, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Joseph D. Pellegrino, District Director, U.S. Small Business Administration, 10 Causeway Street, room 265, Boston, Massachusetts 02222-1093, (617) 565-5560.

Dated: May 18, 1992.

Caroline J. Beeson,

Assistant Administrator, Office of Advisory Councils.

[FR Doc. 92-12070 Filed 5-21-92; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council; Public Meeting

The U.S. Small Business Administration Region VII Advisory Council, located in the geographical area of Kansas City, will hold a public meeting from 10 a.m. to 3 p.m. on Wednesday, June 3, 1992 at 911 Walnut, Kansas City, Missouri, in the 12th Floor Small Business Administration Conference Room, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Dan Loar, Special Assistant to the Regional Administrator, U.S. Small Business Administration, 911 Walnut, 13th Floor, Kansas City, Missouri 64106, (816) 426-3125.

Dated: May 12, 1992.

Caroline J. Beeson,

Assistant Administrator, Office of Advisory Councils.

[FR Doc. 92-12071 Filed 5-21-92; 8:45 am]

BILLING CODE 8025-01-M

National Advisory Council; Public Meeting

The U.S. Small Business Administration, National Advisory Council, will hold a public meeting from 9 a.m. on Monday, June 8, 1992, to 12 noon on Tuesday, June 9, 1992, at the Small Business Administration, 409 Third Street SW., 8th Floor, Eisenhower Conference Room, Washington, DC, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Dorothy Overal, Office of Advisory Councils, U.S. Small Business Administration, 409 Third Street SW., suite 5525, Washington, DC 20416, (202) 205-7650.

Dated: May 18, 1992

Caroline J. Beeson,

Assistant Administrator, Office of Advisory Councils.

[FR Doc. 92-12067 Filed 5-21-92; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 99000067]

LYNX Capital Corp.; Application for a Small Business Investment Company License

An application for a license to operate a Small Business Investment Company (SBIC) under the provisions of section 301(d) the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*), has been filed by LYNX Capital Corporation (the Applicant), 8440 Woodfield Crossing, suite 315, Indianapolis, Indiana 46240, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1991).

The proposed officers, directors and shareholders of the Applicant will be as follows:

Name	Title or position	Percent of ownership
William Mays, 8440 Woodfield Crossing, Indianapolis, IN 46240.	Chairman/ Director.	None
Robert Hurley McKinney, 8440 Woodfield Crossing, Indianapolis, IN 46240.	President/ Director.	None
James Milton Cornelius, 8440 Woodfield Crossing, Indianapolis, IN 46240.	Treasurer/ Director.	None
Jean L. Wojtowicz, 8440 Woodfield Crossing, Indianapolis, IN 46240.	Secretary	None
Gabriel Eloy Aguirre, 8440 Woodfield Crossing, Indianapolis, IN 46240.	Director	None
Joseph Deloise Barnette, Jr., 8440 Woodfield Crossing, Indianapolis, IN 46240.	Director	None

Name	Title or position	Percent of ownership
Michael Steven Maurer, 8440 Woodfield Crossing, Indianapolis, IN 46240.	Director	None
John Stephen Myrland, 8440 Woodfield Crossing, Indianapolis, IN 46240.	Director	None
Andrew Jackson Paine, Jr., 8440 Woodfield Crossing, Indianapolis, IN 46240.	Director	None
Patrick Michael Sheridan, 8440 Woodfield Crossing, Indianapolis, IN 46240.	Director	None
Joseph Alexander Slash, 8440 Woodfield Crossing, Indianapolis, IN 46240.	Director	None
Dobbie Stringer Smith, 8440 Woodfield Crossing, Indianapolis, IN 46240.	Director	None
INB National Bank	Shareholder	20
Mays Chemical Co., Inc.	Shareholder	1.25
First Indiana Bank	Shareholder	5
Indianapolis Power & Light.	Shareholder	5
Bank One	Shareholder	20
Associated Group	Shareholder	7.5
IBJ Corporation	Shareholder	1.25
Eli Lilly and Company	Shareholder	25

The Applicant, a Indiana Corporation, is expected to begin operations with $2,000,000 of private capital and will be a source of equity capital and long-term loan funds for qualified small business concerns. The Applicant intends to conduct its business activities in the State of Indiana and around the Greater Indianapolis Area.

As a Small Business Investment Company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act and will provide assistance solely to small businesses which will contribute to a well balanced national economy by facilitating owership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the existing company under their management including profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 Third Street SW., Washington, DC 20416.

A copy of the Notice shall be published in a newspaper of general circulation in Indianapolis, Indiana.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 15, 1992.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 92-12072 Filed 5-21-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Fitness Determination of Flight Trails d/b/a Air Resorts Airlines

AGENCY: Department of Transportation.

ACTION: Notice of commuter air carrier fitness determination—order 92-5-34, order to show cause.

SUMMARY: The Department of Transportation is proposing to find Flight Trails d/b/a Air Resorts Airlines fit, willing, and able to provide commuter air service under section 419(e) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, Department of Transportation, 400 Seventh Street, SW., room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than May 26, 1992.

FOR FURTHER INFORMATION CONTACT: Carol Woods, Air Carrier Fitness Division (P-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2340.

Dated: May 18, 1992.

Patrick V. Murphy, Jr.,

Deputy Assistant Secretray for Policy and International Affairs.

[FR Doc. 92-12016 Filed 5-21-92; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended May 15, 1992

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.) The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48155.
Date filed: May 15, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 12, 1992.
Description: Application of Cypress Jetprop Charter Limited Operating As "Cypress Airlines", pursuant to section 402 of the Act and subpart Q of the Regulations, applies for a foreign air carrier permit to operate a scheduled international service serving the points Vancouver, British Columbia, Canada and Reno, Nevada, U.S.A.

Docket Number: 45723.
Date filed: May 14, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 11, 1992.
Description: Amendment to the Application of Transportes Aereos Ejecutivos, S.A. de C.V., pursuant to section 402 of the Act and subpart Q of the Regulations, of its foreign air carrier permit, to the extent necessary to permit TAESA to engage in the scheduled air transportation of persons, property and mail between Zacxatecas (ZCL), Mexico, on the one hand, and Chicago, Illinois (ORD), on the other hand.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92-12018 Filed 5-21-92; 8:45 am]

BILLING CODE 4910-62-M

Aviation Proceedings; Agreements Filed During the Week Ended May 15, 1992

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412

and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 48157.
Date filed: May 15, 1992.
Parties: Members of the International Air Transport Association.
Subject: Telex dated May 7, 1992.
Mail Vote 568 (Amend Mileage Manual - Reso 011).
Proposed Effective Date: June 1, 1992.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92-12017 Filed 5-21-92; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Approval of Noise Compatibility Program for North Las Vegas Air Terminal (VGT), North Vegas, NV

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program submitted by the Clark County Department of Aviation under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On January 28, 1992, the Assistant Administrator for Airports approved the Noise Compatibility Program for North Las Vegas Air Terminal. Two (2) of the six (6) recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the North Las Vegas Air Terminal Noise Compatibility Program is January 28, 1992.

FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, Supervisor Planning and Programming Section, SFO-610, San Francisco Airports District Office, Federal Aviation Administration, 831 Mitten Road, Burlingame, California 94010, Telephone: 415/876-2805. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for North Las Vegas Air Terminal, effective January 28, 1992.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a Noise Exposure Map may submit to the FAA a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the Noise Exposure Maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport Noise Compatibility Program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards express in part 150 and the Act and is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to the FAA's approval of an airport Noise Compatibility Program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute and the FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Burlingame, California.

The Clark County Department of Aviation submitted to the FAA on December 19, 1988 the Noise Exposure Maps, descriptions, and other documentation produced during the Noise Compatibility Planning study conducted from January 1986 through September 1988. The Noise Exposure Maps were determined by the FAA to be in compliance with applicable requirements on February 6, 1990. Notice of this determination was published in the **Federal Register** on February 28, 1990.

The study contains a proposed Noise Compatibility Program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to, or beyond, the year 1992. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in section 104(b) of the Act. The FAA began its review of the program on August 2, 1991 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained six (6) proposed actions for noise mitigation at the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Assistant Administrator for Airports effective January 28, 1992.

Outright approval was granted for two (2) of the six (6) program elements: Ontinue comprehensive planning to maximize land use compatibility, and Change zoning to be consistent with updated comprehensive plans and minimize the development of noise-sensitive land use. The four (4) elements were disapproved upon being found to be more properly categorized as airport development: Limit aircraft using the Air Terminal to 12,500 pounds gross takeoff weight; Construct extensions to both

Runways 7/25 and 12/30; Build a new runway to replace existing Runway 12/30; and Acquire approximately 250 acres of land forecasted to be exposed to DNL 70+.

These determinations are set forth in detail in a Record of Approval endorsed by the Assistant Administrator for Airports on January 28, 1992. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are avilable for review at the FAA office listed above and at the administrative offices of the Clark County Department of Aviation.

Issued in Hawthorne, California on May 8, 1992.

Ellsworth L. Chan,

Acting Manager, Airports Division, AWP-600, Western-Pacific Region

[FR Doc. 92-12020 Filed 5-21-92; 8:45 am]

BILLING CODE 4910-13-M

Approval of Noise Compatibility Program; Wiley Post Airport, Oklahoma City, OK

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Oklahoma City Airport Trust under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On November 8, 1991, the FAA determined that the noise exposure maps submitted by the Oklahoma City Airport Trust under part 150 were in compliance with applicable requirements. On April 29, 1992, the Administrator approved the noise compatibility program. Many of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Wiley Post Airport noise compatibility program is April 29, 1992.

FOR FURTHER INFORMATION CONTACT: Dean A. McMath, Department of Transportation, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, 76193-0610, (817) 624-5594. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Wiley Post Airport, Oklahoma City, Oklahoma, effective April 29, 1992.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal Program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against type or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports Division Office in Fort Worth, Texas.

The Oklahoma City Airport Trust submitted to the FAA on February 8, 1991, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from August 30, 1988 through January 6, 1992. The Wiley Post Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on November 8, 1991. Notice of this determination was published in the **Federal Register** on November 26, 1991.

The Wiley Post FAR part 150 study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to (or beyond) the year 1996. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on November 8, 1991 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 17 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective April 29, 1992.

Outright approval was granted for five of the specific program elements. Approved elements included a noise complaint system, updating the study when appropriate, a pilot education program, enforcement of existing zoning, and a noise abatement departure procedure. There were 11 existing noise

abatement measures which were disapproved pending submission of additional information to make an informed analysis. These measures involved runway usage and flight procedures. The study did not quantify what benefits the measures offered to the surrounding environs. One other element was disapproved for purposes of part 150. This element involved extension of a runway. Noise benefits were quantified; the driving reason for the extension however, is capacity not noise abatement.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on April 29, 1992. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available at the FAA office listed above and at the administrative offices of the Department of Airports Administration, Will Rogers World Airport, Oklahoma City, Oklahoma 73159.

Issued in Fort Worth, Texas, May 7, 1992.

G. Thomas Graves,

Manager, New Mexico/Oklahoma Airport Development Office.

[FR Doc. 92-12022 Filed 5-21-92; 8:45 am]

BILLING CODE 4910-13-M

Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In April 1992, there were four applications approved and one application disapproved.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (P.L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC APPLICATIONS APPROVED

Public Agency: Gulfport-Biloxi Regional Airport Authority, Gulfport, Mississippi.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $384,028.
Earliest Permissible Charge Effective Date: July 1, 1992.
Duration of Authority to Impose: December 1, 1993.
Class of Air Carriers Not Required to Collect PFC'S: None.
Brief Description of Projects Approved:
Land/escalator.
Vault repairs.
Clear and grub.
First floor terminal improvements.
Airside sweeper.
Second floor terminal improvements.
Land purchase.
Construct maintenance building.
Air freight road improvements.
Northeast loop road access.
Entrance boulevard improvements.
Phase I-perimeter road.
Air carrier ramp expansion.
Brief Description of Projects Disapproved:
Cargo site preparation.
Land purchase.
Clear and grub
Planning studies
Terminal heating, ventilation, and air conditioning.
Runway overlay.
Determination: These projects were disapproved in accordance with § 158.33(a)(1), which requires the public agency to begin implementation of a project no later than 2 years after receiving approval to use PFC revenue on that project.
Loading bridge at gate 1.
Determination: Based on the public agency's stated uncertainty about implementing the project within 2 years as required by § 158.33(a)(1) and the flawed financial plan, the FAA is disapproving this project at this time.
Public parking.
Determination: This project is not AIP eligible, and therefore, not PFC eligible.
Decision Date: April 3, 1992.

FOR FURTHER INFORMATION CONTACT: Elton E. Jay, FAA Jackson Airports District Office, (601) 965-4628.

Public Agency: Port of Portland, Portland, Oregon.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $17,961,850.
Earliest Permissible Charge Effective Date: July 1, 1992.
Duration of Authority to Impose: July 1, 1994.
Class of Air Carriers Not Required to Collect PFC'S: Commercial operators having a minimum seating capacity of less than 20 passengers or a maximum payload capacity of less than 6,000 pounds.
Brief Description of Projects Approved:
New taxiway "C"
Terminal enplaning roadway expansion
Airport Way rehabilitation and modification.
Brief Description of Projects Partially Approved:
Central utility plant expansion.
Determination: 3 percent of the new terminal will be used for concessions, which are ineligible under AIP and PFC criteria.
Decision Date: April 8, 1992.
For Further Information Contact: Wade Bryant, FAA Seattle Airports District Office, (206) 431-1510.

Public Agency: Hattiesburg-Laurel Regional Airport Authority, Moselle, Mississippi.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $119,153.
Earliest Permissible Charge Effective Date: July 1, 1992.
Duration of Authority to Impose: January 1, 1998.
Class of Air Carriers not Required to Collect PFC'S: None.
Brief Description of Project Approved: Overlay Runway 18/36, parallel taxiway, and general aviation ramp.
Decision Date: April 15, 1992.
For Further Information Contact: Elton E. Jay, FAA Jackson Airports District Office, (601) 965-4628.

Public Agency: City and County of Denver, Denver, Colorado.
Application Type: Impose a PFC at Stapleton International Airport/ Denver International Airport and use at Denver International Airport.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $2,330,734,321.
Earliest Permissible Charge Effective Date: July 1, 1992.
Duration of Authority to Impose: January 1, 2026.
Class of Air Carrier Not Required to Collect PFC's: Dedicated air ambulance services.
Brief Description of Project Approved: Development, bond financing, and debt service costs associated with eligible work at Denver International Airport not funded by the AIP. This development is the opening day complex of five runways and other airside and landside development necessary to complete a usable unit for the opening.
Decision Date: April 28, 1992.
For Further Information Contact: Wade Bryant, FAA Seattle Airports District Office, (206) 431-1510.

PFC Applications Disapproved

Public Agency: City of Austin, Austin, Texas.
Application Type: Impose PFC.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $0.
Brief Description of Project Approved: Conversion of Bergstrom Air Force Base to a commercial air service airport.
Determination: The PFC rule permits advance collection only when the operator can show a reasonable plan to begin expenditures within 3 years (although this period may, for good cause, be extended to 5 years). This means that Austin must be prepared to begin expenditures no later than mid-1995. The unresolved issues in connection with the Bergstrom site are too substantial for the FAA to have reasonable confidence that the city is within 3 years (or even 5) of being ready to begin construction. These and other issues can and should be addressed and resolved in the airport master plan and the environmental studies that are now underway.
Decision Date: April 21, 1992.
For Further Information Contact: Bill Perkins, FAA Southwest Region Airports Division, (817) 624–5979.

Cumulative List of Applications Previously Approved—Huntsville International Airport, Huntsville, Alabama

Date approved: March 6, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $20,831,051.
Earliest charge effective date: June 1, 1992.
Estimated charge expiration date: November 1, 2008.

Muscle Shoals Regional Airport, Muscle Shoals, Alabama

Date approved: February 18, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $104,100.
Earliest charge effective date: June 1, 1992.
Estimated charge expiration date: February 1, 1995.

Savannah International Airport, Savannah, Georgia

Date approved: January 23, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $39,501,502.
Earliest charge effective date: July 1, 1992.
Estimated charge expiration date: March 1, 2004.

Capital Airport, Springfield, Illinois

Date approved: March 27, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $682,306.
Earliest charge effective date: June 1, 1992.
Estimated charge expiration date: May 1, 1994.

Minneapolis-St. Paul International Airport, Minneapolis, Minnesota

Date approved: March 31, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $23,408,819.
Earliest charge effective date: June 1, 1992.
Estimated charge expiration date: April 1, 1993.

McCarran International Airport, Las Vegas, Nevada

Date approved: February 24, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $428,054,380.
Earliest charge effective date: June 1, 1992.
Estimated charge expiration date: February 1, 2004.

Issued in Washington, DC, on May 18, 1992.

Quentin S. Taylor,

Deputy Assistant Administrator for Airports.

[FR Doc. 92–12019 Filed 5–21–92; 8:45 am]

BILLING CODE 4910–13–M

Life Preservers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed technical standard order (TSO); request for comments.

SUMMARY: The proposed TSO–C13f prescribes the minimum performance standards that life preservers must meet to be identified with the marking "TSO–C13f."

DATE: Comments must identify the TSO file number and be received on or before June 26, 1992.

ADDRESSES: Send all comments on the proposed technical standard order to: Technical Analysis Branch, AIR–120, Aircraft Engineering Division Aircraft Certification Service—File No. TSO–C13f, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, room 335, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Analysis Branch, AIR-120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–9546.

Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

TSO–C13f, as initially proposed, has been reformatted and edited to bring it in conformance with the other TSO's on inflatable devices. Technical changes also are included. These changes resulted from the review and analysis of the comments received on the proposed TSO–C13f, which was first published in the **Federal Register** on September 1, 1989, (54 FR 36405) and an effort to enhance the section on testing. The substantive technical changes proposed to Appendix 1 of TSO–C13f are listed by paragraph as follows:

3.1.2 Coated fabrics and other items subject to deterioration, such as webbing, must have been manufactured not more than 18 months prior to the date of delivery of the finished product or requalified per paragraph 5.1 Material.

3.1.4.3 *Permeability.* For coated fabrics used in the manufacture of inflation chambers, the maximum permeater to helium may not exceed 5 liters/square meter in 24 hours at 77 degrees F or its equivalent using hydrogen. The permeater must be calibrated for the gas used * * *

3.1.5 *Seam Strength and Adhesives.* Cemented or heat sealed seams used in the manufacture of the device must meet the following minimum strength requirements:

3.1.5.1 *Cemented Seams* * * *

3.1.5.2 *Heated Sealed Seams.* The application of tape over heat sealed seams is optional. Devices manufactured with heat sealed seams

must meet the following minimum strength requirements:

Seam Strength (Grab Test)

65 pounds/inch width at 75 degrees F

40 pounds/inch width at 140 degrees F

3.1.8 *Flammability.* The device (including packaging) must be constructed of materials which meet paragraph (b–2) FAR section 25.853 in effect on May 1, 1972.

4.1.3 *Protection Against Abrasion and Chaffing, Type I Life Preserver.* The flotation chambers must be protected in such a manner that metallic or nonmetallic parts do not cause chaffing or abrasion of the material in either the packed or inflated condition.

4.1.4.2 *Oral Inflation Valve.* The opening pressure of the oral inflation valve, with no back pressure applied to the valve, may not exceed 0.44 pounds per square inch gage (psig) * * * *

4.1.4.3.1 *Gas Reservoir.* * * * If carbon dioxide (CO_2) cylinders are used, the standards of MIL–C–601 or the equivalent are acceptable notwithstanding any size or weight limitations.

4.1.5 *Deflation, Type I Life Preserver.* * * * In particular, inadvertent deflation from movement of a child or infant-small child and deliberate deflation by a child or small child must be precluded.

4.1.9.2 *Infant-Small Child Life Preservers.* * * * Means must be provided to prevent the entrapment of rain or choppy water.

4.1.11 *Life Preserver Retention and Donning Characteristics.* * * * It must be demonstrated, that an adult, unassisted, can install an appropriate life preserver on another adult or child within 30 seconds. It also must be demonstrated, in accordance with the donning tests specified in paragraph 5.9, that 60% of the adult test subjects can install an infant-small child dummy in an infant-small child life preserver within 90 seconds.

4.1.12.4 Blood circulation of the wearer is not to be restricted.

4.1.13 *Survivor Locator Light.* * * * The light must be automatically activated. This can be accomplished upon contact with the water, upon inflation or by any other means not requiring additional user action.

4.1.15 *Color.* The color of the life preserver must be an international orange-yellow or similar high visibility color.

5. *Tests.* * * *

(2) * * * Heat sealed seams must have ⅛ inch width minimum bead * * *

5.6.2 *Pull Cord Strength.* The pull cord may not fail or separate from the mechanical inflation means when a minimum tension load of 60 pounds is applied to the cord for at least 3 seconds. If the pull cord is designed to separate from the mechanical inflation means when operated, the pull cord shall be capable of withstanding a minimum tension load of 30 pounds for 3 seconds without failure.

5.6.3 *Proof Pressure.* * * * The mechanical inflation means may not leak when subjected to 2 psig air pressure and may not lose more than .5 psig when subjected to 40 psig air pressure.

5.7.1 *Adult, Adult-Child or Child.* * * *

5.7.2 *Infant-Small Child.* An infant-small child life preserver must remain inflated and undamaged and the infant-small child dummy, specified in paragraph 5.9.1, must remain properly secured when an adult holding the dummy, with the preserver installed on the dummy, jumps into the water from a height at least 5 ft. above the water. The adult must be wearing an inflated life preserver for the test.

5.9.1 *Test Subjects.* * * * Infant-small child donning tests must be performed by a minimum of 5 adult test subjects of both sexes between the ages of 20–40. Tests must be performed using an articulating infant-small child dummy representing, as a minimum, a 50th percentile 2-year old, with a height of 34 inches and weighing 27.2 pounds.

5.9.2 *Test Arrangement.* * * * Infant-small child life preserver donning tests must be performed with adults in adjacent seats who must not assist or hamper the adult performing the donning test * * *

5.9.3 *Test Procedure.* * * * Timing starts on signal when the test subject has both hands on the packaged life preserver * * * *

How to Obtain Copies: A copy of the proposed TSO–C13f may be obtained by contacting the person listed in the paragraph "For Further Information Contact." Federal Test Method Standard No. 191A may be examined at any FAA Aircraft Certification Office, and may be obtained (or purchased) from the General Services Administration, Business Service Center, Region 3, 7th and D Streets, SW., Washington, DC 20407.

Issued in Washington, DC, on May 18, 1992.

John K. McGrath,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 92–12021 Filed 5–21–92; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Charleston County, SC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to a final environmental impact statement will be prepared for the extension of the Mark Clark Expressway from the existing intersection of U.S. 17 and S.C. 7 to the present terminus of James Island Expressway near S.C. Route 171 (Folly Road).

FOR FURTHER INFORMATION CONTACT: Kenneth R. Myers, Planning & Environmental Engineer, Federal Highway Administration, 1835 Assembly Street, suite 758, Strom Thurmond Federal Building, Columbia, South Carolina 29201, Telephone (803) 253–3881.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the South Carolina Department of Highways and Public Transportation, will prepare a supplemental environmental impact statement (SEIS) on a proposal to extend the Mark Clark Expressway to the James Island Expressway. The original EIS for the improvements covered the portion of the Mark Clark Expressway (then the Inner Belt Freeway) from S.C. 171 to Virginia Avenue near the Cooper River, a distance of about 17 miles. Various actions to implement the project have occurred since that time, and approximately 10 miles are either open to traffic or under construction. The route has been a part of the Charleston Area Plan for over twenty years and is considered necessary to adequately provide for existing and future traffic demand.

The SEIS will evaluate any changes in the project area that may affect the proposed action and will evaluate the environmental impacts with regard to environmental requirements that have been developed since the original approval. Reasonable alternatives are anticipated to be design variations within the corridor identified in the original EIS.

Coordination will be continued with appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A public hearing will be held for which public notice will be given of the time and place of the

hearing. The draft SEIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the SEIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: May 15, 1992.

Robert J. Probst,

Division Administrator, Columbia, South Carolina.

[FR Doc. 92-11981 Filed 5-21-92; 8:45 am]

BILLING CODE 4910-22-M

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods; Public Meeting

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that RSPA will conduct a public meeting to exchange views on proposals submitted to the sixth session of the United Nations' Sub-Committee of Experts on the Transport of Dangerous Goods.

DATES: June 30, 1992 at 9:30 a.m..

ADDRESSES: Room 3200, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Frits Wybenga, International Standards Coordinator for Hazardous Materials Safety, RSPA, Department of Transportation, Washington, DC 20590; (202) 366-0656.

SUPPLEMENTARY INFORMATION: This meeting will be held in preparation for the sixth session of the Sub-Committee of Experts on the Transport of Dangerous Goods to be held July 6 to 17, 1992, in Geneva. During this meeting the U.S. position on proposals submitted to the sixth session of the Sub-Committee will be discussed. Topics to be covered include: Test for classifying explosives, packaging requirements for explosives, classification criteria for corrosive substances, tests to determine the ability of flammable liquids to sustain burning, requirements for lithium batteries, definition of liquid and solid, packaging and risks levels for infectious substances including infectious wastes, classification criteria for aerosols, requirements for overpacks, documentation of performance packaging tests, packaging requirements for dangerous goods, requirements for intermediate bulk containers used to transport packaging group I substances, classification of specific dangerous goods and other proposed amendments to the United Nations Recommendations on the Transport of Dangerous Goods.

The public is invited to attend without prior notification.

Documents

Copies of documents submitted to the sixth session of the UN Sub-Committee meeting may be obtained from RSPA. A listing of these documents is available on the Hazardous Materials Information Exchange (HMIX), RSPA's computer bulletin board. Documents may be ordered by filling out an on-line request form on the HMIX or by contacting RSPA's Dockets Unit (202-366-4453). For more information on the use of the HMIX system, contact the HMIX information center; 1-800-PLANFOR (752-6367); in Illinois, 1-800-367-9592; Monday through Friday, 8:30 a.m. to 5 p.m. Central time.

After the meeting, a summary of the public meeting may be obtained from the Hazardous Materials Advisory Council, suite 250, 1110 Vermont Ave., NW., Washington, DC 20005; telephone number (202) 728-1460.

Issued in Washington, DC, on May 19, 1992.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 92-11997 Filed 5-21-92; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 183 (Rev. 4)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority of the Commissioner of Internal Revenue, under 26 CFR part 301, to grant a reasonable extension of the time fixed by regulations (or by a revenue ruling, a revenue procedure, a notice, or an announcement published in the Internal Revenue Bulletin) for making an election or application for relief with respect to tax under all subtitles of the Code except subtitles E, G, H, and I, is delegated to the Assistant Commissioner (Employee Plans and Exempt Organizations), the Associate Chief Counsel (Domestic), the Associate Chief Counsel (International), and the Associate Chief Counsel (Employee Benefits and Exempt Organizations) for cases within their respective jurisdictions.

The delegated authority may be redelegated as follows:

1. The Assistant Commissioner (Employee Plans and Exempt Organizations) may redelegate his or her authority to the Director, Employee Plans Technical and Actuarial Division, and to the Director, Exempt Organizations Technical Division. However, the Director, Employee Plans Technical and Actuarial Division, may redelegate his or her authority to the Assistant Director of that Division and to Branch Chiefs, and the Director, Exempt Organizations Technical Division, may redelegate his or her authority to the Director's Executive Assistant and to Branch Chiefs.

2. The Associate Chief Counsel (Domestic) may redelegate his or her authority to his or her Deputy Associate Chief Counsels, and to the Assistant Chief Counsel (Corporate), the Assistant Chief Counsel (Financial Institutions and Products), the Assistant Chief Counsel (Income Tax and Accounting), the Assistant Chief Counsel (Passthroughs and Special Industries) and their respective Deputy Assistant Chief Counsels. However, the authority may be redelegated to Branch Chiefs.

3. The Associate Chief Counsel (Employee Benefits and Exempt Organizations), may redelegate his or her authority to the Deputy Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, the authority may be redelegated to the Assistant Chief Counsels (Employee Benefits and Exempt Organizations) and to Branch Chiefs.

4. The Associate Chief Counsel (International) may redelegate his or her authority to the Deputy Associate Chief Counsel (International) and to the Assistant Chief Counsels (International). However, the authority may be redelegated to Branch Chiefs.

The text of the delegation order appears below.

EFFECTIVE DATE: April 23, 1992.

FOR FURTHER INFORMATION CONTACT: John H. Turner, E:EP:P:1, room 6702, 1111 Constitution Avenue NW., Washington, DC 20224, telephone (202) 566–3662 (not a toll-free call).

Order No. 183 (Rev. 4)

Effective date: April 23, 1992.

Extension of Time for Making Certain Elections

1. Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.9100–1, the Assistant Commissioner (Employee Plans and Exempt Organizations), the Associate Chief Counsel (Domestic), the Associate Chief Counsel (International), and the Associate Chief Counsel (Employee Benefits and Exempt Organizations) are authorized to grant, for cases within their respective jurisdictions, a reasonable extension of the time fixed by regulations, or by a revenue ruling, a revenue procedure, a notice, or an announcement published in the Internal Revenue Bulletin, for the making of an election or application for relief in respect of tax under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I, subject to the requirements of 26 CFR 301.9100–1.

2. Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.9100–1, the District Directors of Employee Plans and Exempt Organizations Key Districts are authorized to grant, for IRC 505(c) and 508 matters, a reasonable extension of time fixed by regulations for making an election or application for relief in respect of tax under subtitle A of the Code, subject to the requirements of 26 CFR 301.9100–1.

3. The § 301.9100–1 authority described in section 1 may be redelegated as follows:

a. For matters under the jurisdiction of the Assistant Commissioner (Employee Plans and Exempt Organizations), to the Director, Employee Plans Technical and Actuarial Division, and to the Director, Exempt Organizations Technical Division. This authority may be further redelegated by the Director, Employee Plans Technical and Actuarial Division, to the Assistant Director of that Division and to Branch Chiefs under the Director's supervision, but below Branch Chiefs, and may be redelegated by the Director, Exempt Organizations Technical Division, to the Director's Executive Assistant and to Branch Chiefs under the Director's supervision, but not below Branch Chiefs.

b. For matters under the jurisdiction of the Associate Chief Counsel (Domestic), to his or her Deputy Associate Chief Counsels, and to the Assistant Chief Counsel (Corporate), the Assistant Chief Counsel (Financial Institutions and Products), the Assistant Chief Counsel (Income Tax and Accounting), the Assistant Chief Counsel (Passthroughs and Special Industries) and their respective Deputy Assistant Chief Counsels. However, the authority may be redelegated to Branch Chiefs.

c. For matters under the jurisdiction of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), to the Deputy Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, the authority may be redelegated to the Assistant Chief Counsels (Employee Benefits and Exempt Organizations) and to Branch Chiefs.

d. For matters under the jurisdiction of the Associate Chief Counsel (International), to the Deputy Associate Chief Counsel (International) and to the Assistant Chief Counsels (International). However, the authority may be redelegated to Branch Chiefs.

4. The § 301.9100–1 authority described in section 2 may be redelegated no lower than Chief, Technical/Review Staff in EP/EO Key Districts.

5. Delegation Order No. 183 (Rev. 3) effective March 22, 1988, is superseded.

Dated: April 23, 1992.

David G. Blattner,

Chief Operations Officer.

[FR Doc. 92–11984 Filed 5–21–92; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 100
Friday, May 22, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:05 a.m. on Tuesday, May 19, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the probable failure of certain insured banks.

Recommendation concerning an administrative enforcement proceeding.

Personnel matter.

Matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), concurred by Vice Chairman Andrew C. Hove Jr., Director Stephen R. Steinbrink (Acting Controller of the Currency), and Chairman William Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observtion; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552(b)(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Dated: May 19, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92–12224 Filed 5–20–92; 2:16 pm]

BILLING CODE 6714–0–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [57 FR 20864 May 15, 1992].

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Wednesday, May 13, 1992.

CHANGE IN THE MEETING: Rescheduling.

An open meeting scheduled for Thursday, May 21, 1992, at 2:30 p.m., in Room 1C30, has been moved to Room 6143. The following open item will not be considered on Thursday, May 21, 1992, at 2:30 p.m.

Consideration of whether to adopt amendments to rule 52, and whether to issue for comment further proposed amendments to the same rule and to rule 45(b)(4), under the Public Utility Holding Company Act of 1935. Rule 52 exempts certain financings by public-utility subsidiaries of registered holding companies, provided that eight conditions are met. The amendment to rule 52 would eliminate the six nonstatutory conditions and would extend the exemption to all mortgage bonds rather than first mortgage bonds alone. The proposed amendment to rule 52 would exempt additional public-utility financings, as well as certain nonutility financings, subject to certain conditions. The proposed amendment to rule 45(b)(4) would remove a current dollar limitation on capital contributions and open account advances, without interest, by a holding company to its subsidiary company. For further information, please contact Brian Spires at (202) 272–7688.

Commissioner Roberts, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Chris Sakach at (202) 272–2300.

Dated: May 19, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–12138 Filed 5–19–92; 4:29 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 57, No. 100
Friday, May 22, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

48 CFR Parts 225, 231, and 242

Department of Defense Federal Acquisition Regulation Supplement; Independent Research and Development Costs

Correction

In proposed rule document 92-7511 beginning on page 11059 in the issue of Wednesday, April 1, 1992, make the following correction:

242.771-1 [Corrected]

1. On page 11060, in the third column, in section 242.771-1, in the first line, "contracts" should read "contractors".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0200]

Drug Export; Paxil™ (Paroxetine Hydrochloride) Tablets

Correction

In notice document 92-10588 appearing on page 19638 in the issue of Thursday, May 7, 1992, in the second column, under **SUPPLEMENTARY INFORMATION**, in the eighth line, "802(B)(3)(B)" should read "802(b)(3)(B)".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Monensin and Tylosin

Correction

In rule document 92-7848 beginning on page 11682 in the issue of Tuesday, April 7, 1992, on page 11683, in the first column, in **List of Subjects in 21 CFR**, *Part 508* should read *Part 558*.

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 735

OFFICE OF GOVERNMENT ETHICS

5 CFR Parts 2633 and 2634

RIN 3209-AA00

Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees

Correction

In rule document 92-7828 beginning on page 11800 in the issue of April 7, 1992, make the following corrections:

§ 2634.101 [Corrected]

1. On page 11804, in the third column, "§ 2643.101" should read "§ 2634.101".

§ 2634.105 [Corrected]

2. On page 11805:

a. In the second and third columns, in § 2634.105 (a), (b), (e), (f), (h), (i), and (j), in the first or second lines, remove the comma after "means".

b. In the second column, in § 2634.105(c), in the first line, "for" should read ". For".

c. In the same column, in the third line from the bottom, in § 2634.105(f), "Executie" should read "Executive".

3. On page 11806, in the first column, in § 2634.105(k), in the second line, and (l), and (n), in the first line, remove the comma after "means".

§ 2634.201 [Corrected]

4. On page 11806, in the same column, in § 2634.201(a), in the fourth line "of office" should read "or office".

5. On the same page, in the third column, in the same section, in *Example 2*, in the last line, "and" should read "an".

6. On page 11807, in the first column, in § 2634.201(d)(1), in the second line, after "candidate" insert "or".

§ 2634.203 [Corrected]

7. On page 11807, in the third column, in the section heading, "Person" should read "Persons".

§ 2634.301 [Corrected]

8. On page 11809, in the first column, in § 2634.301(c)(3), in the second line, "§ 2634.105(1)" should read "§ 2634.105(l)".

§ 2634.302 [Corrected]

9. On page 11809, in the second column, in § 2634.302(a)(1)(ii), in the fourth line, "Security;" should read "Security);".

§ 2634.303 [Corrected]

10. On page 11810, in the second column, in § 2634.303(a)(1), in the third line, "§ 2634.105(1)" should read "§ 2634.105(l)".

§ 2634.307 [Corrected]

11. On page 11812, in the first column, in § 2634.307(b), in the first line, "*Exeptions*" should read "*Exceptions*".

§ 2634.310 [Corrected]

12. On page 11813, in the third column, in § 2634.310(b)(2)(ii), in the first line, "holding" should read "holdings".

§ 2634.403 [Corrected]

13. On page 11817, in the first column, in § 2634.403(b)(9)(ii)(D), in the **Note:**, in the first line "(c)(C)(vi)" should read "(3)(C)(vi)".

§ 2634.404 [Corrected]

14. On page 11818, in the third column, in § 2634.404(c)(9)(ii)(C), in the **Note:**, in the seventh line from the bottom, "paragrapy" should read "paragraph".

§ 2634.603 [Corrected]

15. On page 11822, in the second column, in § 2634.603(c)(3), in the first line, "The" should read "That the".

§ 2634.604 [Corrected]

16. On page 11823, in the first column, in § 2634.604(b), in the seventh line, "DGE/Govt-2" should read "OGE/GOVT-2".

§ 2634.803 [Corrected]

17. On page 11826, in the first column, in § 2634.803(a), in the second line, "*senate.*" should read "*Senate.*".

§ 2634.804 [Corrected]

18. On the same page, in second column, in § 2634.804(b)(1), in the first line, "*Recusal*" should read "*Recusal.*".

§ 2634.805 [Corrected]

19. On the same page, in the third column, in the section heading, "Retention" should read "Retention.".

§ 2634.905 [Corrected]

20. On page 11829, in the first column, in § 2634.905(c), in *Example 3.*, in the sixth line, "spouse" should read "spouse,".

Appendix B to Part 2634 [Corrected]

21. On page 11830, in the first column, in Appendix B, in the first paragraph, in the second line, "2634.408(b)" should read "§ 2634.408(b)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8401]

RIN 1545-AN12

Consolidated Return Regulations—Distributions After the Sale of Stock of a Subsidiary

Correction

In rule document 92-6265 beginning on page 9209 in the issue of Tuesday, March 17, 1992, make the following corrections:

1. On page 9210, in the first column, under **Background**, in the first paragraph, in the last line, after "comments" insert ".".

2. On the same page, in the same column, under **Background**, in the 2d paragraph, in the 12th line, "deposition" should read "disposition".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 8415]

RIN 1545-AM45

Reimbursement to State and Local Law Enforcement Agencies

Correction

In rule document 92-9539 beginning on page 15016 in the issue of Friday, April 24, 1992, make the following corrections:

1. On page 15016, in the second column, under **EFFECTIVE DATE**, in the fourth line, "Federal" should read "February".

2. On the same page, in the third column, under **Explanation of Provisions**, in the second line, "discretion of" should read "discretion to".

3. On page 15017, in the second column, in the tenth line, "refund as" should read "refund is".

§ 301.7624-1 [Corrected]

4. On the same page, in the third column, in the heading preceeding **Par. 2.**, the second line should read "[6 **301.7624-1**]".

BILLING CODE 1505-01-D

federal register

Friday
May 22, 1992

Part II

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 303 and 381

Exemption of Pizzas Containing Meat or Poultry Product; Proposed Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 303 and 381

[Docket No. 91-041P]

RIN 0583-AB52

Exemption of Pizzas Containing Meat or Poultry Product

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule; notice of hearing.

SUMMARY: This proposed rule would amend the Federal meat and poultry products inspection regulations to implement Public Law 102-237. This law amended the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) to exempt from Federal inspection the preparation of pizzas topped with inspected and passed, cooked or cured, ready-to-eat meat food or poultry product under certain terms and conditions. This proposal would also clarify that such products containing poultry products are subject to the adulteration and misbranding provisions of the PPIA. The Federal meat inspection regulations already specify that any articles produced at businesses or operations that are exempted from Federal inspection must comply with the adulteration and misbranding provisions of the FMIA.

On June 9, 1992, FSIS will conduct a public hearing, as required by Public Law 102-237, to provide an opportunity for examination of the public health and food safety issues raised by the granting of the exemption of pizzas containing meat or poultry product.

DATES: Comments must be received on or before June 22, 1992. Notices of participation in the hearing should be filed by June 2, 1992. The public hearing will be held on Tuesday, June 9, 1992, 10 a.m. to 3 p.m. This hearing will be open to the public on a space available basis.

ADDRESSES: Written comments to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments as provided by the Poultry Products Inspection Act should be directed to: Mr. Patrick Clerkin, (202) 720-5604. (See also "Comments" under "Supplementary Information.")

The public hearing will be held in the Holiday Inn Capitol, Ballroom, 550 C Street, SW., Washington, DC 20024. Written notices of participation are to be sent to Mr. Patrick Clerkin, room 2925, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, or telephone requests may be made to Mr. Clerkin at (202) 720-5604.

Transcripts of the hearing and copies of data and information submitted during the hearing will be available for review at the FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 under Docket Number 91-041P.

FOR FURTHER INFORMATION CONTACT: Patrick Clerkin, Acting Assistant Deputy Administrator, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 720-5604. Persons needing information about the various issues to be addressed at the public hearing should also contact Mr. Clerkin.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this proposed rule is not a major rule under Executive Order 12291. It would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In analyzing the effect of this proposed rule, the Agency focused primarily on the school lunch market because it believes this market, as opposed to other public or private nonprofit institutions, will be the most affected by this rule. The proposed rule is not expected to have any net impact on the total consumption of pizza. FSIS anticipates increased competition in the school lunch market through this rule by making an alternative product more available. Generally, frozen pizzas are purchased for the school lunch market. In 1991, the National School Lunch Program (NSLP) served over 4 billion meals. For analytical purposes, FSIS estimated that 20 percent of the meal are pizza. The school lunch pizzas are packaged as individual servings ranging from 5 to 6 ounces. The Agency's analysis used an average serving size of 5.3 ounces based on a sample of serving sizes. Using these data and assumptions, the NSLP served approximately 808 million servings of pizza or 267.6 million pounds of pizza in 1991. An estimated 78 percent or 208.7 million pounds of this product was meat-topped pizza. These estimates show that the NSLP market represents a substantial share of the frozen pizza market.

FSIS expects this rule will result in some shift in sales in the school lunch market from frozen to fresh pizzas. The eventual magnitude of the shift will be determined by price, student preference, and availability; i.e., not all schools will have access to the alternative product. Based on the Agency's analysis, the likely shift in sales is estimated to be in the $36 to $48 million range.

A secondary impact of the proposed rule would be an increase in the demand for cheese versus cheese alternate. Assuming that fresh pizzas will contain only cheese, the Agency's analysis estimates that the shift in sales will be accompanied by an increase in the demand for cheese of 3 million pounds.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule would exempt from Federal inspection the preparation of pizzas topped with inspected and passed, cooked or cured, ready-to-eat meat food or poultry product under certain terms and conditions.

States and local jurisdictions are preempted under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) from imposing requirements with respect to premises, facilities, and operations of federally inspected meat or poultry products, and any marking, labeling, packaging, or ingredient requirements on federally inspected meat or poultry products that are in addition to, or different than, those imposed under the FMIA or the PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and poultry products that are outside official establishments for the purpose of preventing the distribution of meat or poultry products that are misbranded or adulterated under the FMIA or PPIA. Under the FMIA and the PPIA, States that maintain meat and poultry inspection programs must impose requirements on State inspected products and establishments that are at least equal to those required under the FMIA or PPIA. These States may, however, impose more stringent requirements on such State inspected products and establishments.

If adopted, this rule will not have a retroactive effect. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures

must be exhausted. Those administrative procedures are set forth in the rules of practice governing procedures for the exemption of certain pizza operations proposed at 9 CFR 303.1(e)(4) and 381.10(e)(4) under the FMIA and the PPIA, as amended by Public Law 102–237.

Effects on Small Entities

The Administrator, FSIS, has made an initial determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would principally impact two industries that produce and market pizza. The fresh pizza industry is composed of establishments that prepare fresh pizza for immediate consumption either as a delivery service or as an eat-in restaurant or pizzeria or both. Under existing regulations, these businesses cannot sell meat-topped pizzas to schools for resale to students without operating under Federal inspection. The other industry is the frozen pizza industry that is synonymous with the federally inspected meat and poultry establishments that produce and package frozen pizza. These establishments may also produce a nonfrozen, refrigerated product that is distributed to retail stores, but is not the same product as fresh pizza.

The proposed rule would ease regulatory requirements for certain segments of the pizza industry which would, in turn, provide a positive impact on the affected industry. Such businesses would be exempt from continuous, daily inspection, thus eliminating any costs associated with complying with related inspection requirements. However, this proposed rule would require exempted businesses to comply with certain provisions of the Food and Drug Administration's Food Service Sanitation Manual in regard to the facilities and operations of such businesses. Certain other requirements would also apply to such exempted businesses in order to maintain public health protection.

Decisions by individual businesses on whether to operate under such an exemption would be based on their conclusions that the benefits would outweigh the implementation costs. FSIS is interested in receiving comments on the economic impact that this proposed rule would impose upon both large and small entities opting to operate under this exemption.

Comments

Interested persons are invited to submit written comments concerning this proposed rule. Written comments should be sent to the Policy Office at the address shown above and should refer to Docket Number 91–041P. Any person desiring an opportunity for oral presentation of views as provided under the Poultry Products Inspection Act must make such request to Mr. Patrick Clerkin so that arrangements may be made for such views to be presented. A record will be made of all views orally presented. All comments submitted in response to this proposal will be available for public inspection in the Policy Office from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 4 p.m., Monday through Friday.

Background

Inspection Required of Certain Operations

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) require, among other things, inspection of a broad spectrum of operations and facilities involved in the preparation and processing of food derived from livestock (i.e., cattle, sheep, swine, goats, horses, mules, or other equines) and poultry. The FMIA provides that meat and meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishments must be prepared under Federal inspection unless the operations of the establishment are exempted (21 U.S.C. 603, 604, 606, 608, 610, and 623). The PPIA includes comparable inspection requirements for the processing of poultry products (21 U.S.C. 454, 455, 456, 458, and 459). Establishments preparing or processing product solely for distribution within a State may instead be subject to State inspection if the State develops and effectively enforces requirements that are at least equal to those under the FMIA or PPIA. Section 301(c)(1) and (3) of the FMIA (21 U.S.C. 661(c)(1) and (3)) and section 5(c)(1) and (3) of the PPIA (21 U.S.C. 454(c)(1) and (3)) provide, in relevant part, that the Secretary of Agriculture shall designate any State for Federal inspection (including organized territories) which does not have, or is not effectively enforcing, such requirements; and if a State is so designated, wholly intrastate operations also are subject to Federal inspection and other requirements of the FMIA and PPIA.

Pizza Operations Required To Be Under Inspection

Over the past several years, operators of pizza restaurants have attempted to increase their sales of pizza and meat topped pizzas to school lunch programs. This resulted in a higher level of public awareness of the requirement that some products produced for such sales be produced under Federal or State meat inspection. A restaurant chain proposed and FSIS approved the use of a "Sales Agency Agreement" whereby the restaurant chain could sell meat pizzas directly to students at the school without Federal meat inspection under the so-called "restaurant central kitchen" exemption to the statutory requirement of inspection. However, the National School Lunch Act (NSLA) prohibits a National School Lunch Program (NSLP) school from contracting with a food service company to provide a la carte food service unless the company agrees to offer free, reduced price, and paid reimbursable meals to all eligible students. A reimbursable meal must meet prescribed meal pattern requirements and, in this case, would include more than a slice of pizza. If the restaurant chain chose to function as a Food Service Management Company and offer complete meals, then meals served through such an operation could be eligible for reimbursement. Further, under the NSLP regulations, no foods may be sold in a lunch room in competition with the NSLP unless all of the income from the sale accrues to the benefit of the school food service, the school, or student organizations approved by the school. An option available to the restaurant chain was to have meat pizzas inspected and passed under the FMIA in order to sell meat pizzas to schools as a vendor, which in turn, would sell to the children. In this case, the pizza could be sold by the schools, either as part of a NSLP meal and could be claimed for reimbursement by the schools, or a la carte. Federal inspection of this kind is currently conducted at many facilities producing pizzas. However, because the restaurants' customary operations are exempt from Federal inspection under the FMIA, the facilities may not be designed to meet the Federal meat inspection standards.

Operators of pizza restaurants and operators of school food services continued to question why the preparation of pizzas using meat or poultry toppings, which were produced as cooked and ready-to-eat under inspection, by businesses which were already subject to local health inspection, should require an additional Federal inspection. However, meat or poultry pizzas are "meat food products" or "poultry products" under the FMIA and PPIA, and their preparation for

consumers have traditionally been subject to Federal inspection unless prepared in an exempted establishment. As discussed above, preparation of meat and meat food products, or poultry or poultry products must be done under Federal or State inspection unless the operations of the preparing establishment are exempted from inspection requirements. Existing exemptions covering operations of pizza restaurants do not extend to their production of meat or poultry pizza for wholesale transactions.

FMIA/PPIA Amended

On December 13, 1991, Public Law 102–237 was adopted. This law, in part, amended section 23 of the FMIA (21 U.S.C. 623) and section 15 of the PPIA (21 U.S.C. 464) to provide that the Secretary, through regulation, exempt pizzas containing meat or poultry ingredients from the inspection requirements of the Acts, under such terms and conditions as might be necessary to ensure food safety and protect public health, such as special handling procedures, if: (a) The meat food or poultry product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of this Act; and (b) the pizzas are to be served in public or private nonprofit institutions. The law provides that the Secretary may withdraw or modify any exemptions when he or she determines such action is necessary to ensure food safety and to protect public health. The law further provides that such regulation be issued as final no later than August 1, 1992, and that prior to issuance as a final rule, at least one public hearing be held to examine the public health and food safety issues raised by the exemptions.

The law creates an exemption for products limited to those conforming to provisions for the use of specific types of inspected toppings, and limited to such products when sold for service in public or private nonprofit institutions. This clearly limited exemption is to be further limited by "such terms and conditions as the Secretary shall prescribe * * * that may be necessary to ensure food safety and protect public health, such as special handling procedures." The latter terms and conditions must be appropriate to health and safety concerns associated with these specific products and their distribution.

There is limited recorded legislative history regarding these amendments. Remarks on the floor of the House and the Senate focused on the need to assure that the terms and conditions adopted in implementing this exemption address sanitation, facility, and handling standards, as they relate to the risk of contamination of the previously inspected and passed meat components and the other ingredients of the pizza. The remarks also suggested a focus on the history of food safety concerns for this type of product. The Agency does not know of any data, aggregated by State or for the Nation, which would represent an incidence of foodborne illness related to the type of products subject to this regulation, or to analogous products when produced in pizza restaurants for service at their own restaurant, or at another institution. FSIS requests commenters to provide any such data and is interested in receiving information on how the terms and conditions proposed herein might have impacted on such incidents of foodborne illnesses.

Other Exempt Activities

In considering what terms and conditions were appropriate to any such pizza exemption, FSIS examined current exempt activity. The FMIA and PPIA both include provisions for exemption from inspection requirements for specific operations of certain businesses. The applicability of each exemption is determined, among other things, by the product, the characteristics of the operations of the business, the consumer involved, and the amount of product. Special conditions for manufacturing facilities or labeling under each exemption, if any, are established by law and regulation. These exemptions are set forth in 9 CFR part 303 and 9 CFR part 381, subpart C.

The PPIA and regulations at 9 CFR 381.10 and 381.11 establish various exemptions for businesses and individuals to conduct poultry slaughter and/or processing operations without inspection. Under some exemptions, operations are limited to cutting up previously inspected products. Under others, operations can include slaughter and a full range of further processing operations, such as smoking, manufacturing multiingredient products, cooking and canning. None of these exemptions requires that slaughter or processing facilities or processing procedures meet any specified conditions beyond the general requirement that the products are handled "under such sanitary standards, practices, and procedures as result in the preparation of poultry products that are sound, clean, and fit for human food." The scale of poultry exempt operations, under most circumstances, is self limiting or is limited by law or regulation. The exempted slaughter and preparation of products for one's own use is obviously limited. Some exempted operations are limited to processing the product of no more than 20,000 poultry, and, under some, sales are limited to consumers and primarily household consumers.

The FMIA and regulations at 9 CFR 303.1 also establish various exemptions for different businesses and individuals to conduct meat slaughter and/or processing operations without inspection. The operations permitted under different exemptions vary. For example, persons slaughtering or processing products for their own use are not limited as to what products they can produce. Neither are custom operators who slaughter animals or process products for the owners of such animals or products, solely for their own use and not for sale. These operations can include the manufacture of cooked or cured products, sausage products, smoked products, products containing added substances such as corned beef, and products containing controlled ingredients such as fully cooked hams containing nitrite. Section 303.1(a)(2)(i) of the meat inspection regulations (9 CFR 303.1(a)(2)(i)) provides that these custom exempt establishments must be maintained in conformance with the sanitation, facilities, and equipment provisions set out in 9 CFR 308.3 through 308.14, with certain exceptions as provided in 9 CFR 303.1(a)(2)(i). Furthermore, § 303.1(b)(1) of the meat inspection regulations (9 CFR 301.1(b)(1)) provides that custom exempt products must be prepared and handled in conformance with 9 CFR 316.16, 317.16, 318.5, 318.6, 318.7, 318.10, 318.300 through 318.311, and 320, with certain exceptions as provided in 9 CFR 303.1(b)(1). FSIS applies similar standards in its review of custom exempt poultry slaughter and processing operations. No such conditions are established for persons slaughtering animals or producing products for their own use. However, 9 CFR 303.1(e) provides that all exempted articles must comply with the adulteration and misbranding provisions of the FMIA and regulations, except the requirement of the official inspection legend. Such provision specifically includes trichina treatment requirements for pork or any product containing pork.

The Acts and regulations at 9 CFR 303.1 and 9 CFR 381.10 exempt operations, such as retail stores and restaurants (including central kitchens of restaurants), which are limited with respect to operations and product types only to the extent that they are

prohibited from slaughtering animals and canning products. All other types of cutting, cooking, and formulating are permitted without inspection, but retail stores and restaurants are permitted to sell only to consumers. Retail stores must sell primarily to household consumers, and cannot sell formulated or cooked product to other than household consumers, such as hotels, restaurants, and other similar institutions. Restaurants can only prepare foods for sale to consumers at their restaurant, or, in the case of restaurant central kitchens, to consumers at satellite restaurants or vending machines under their ownership or operation. The restaurant central kitchen exemption at 9 CFR 303.1(d)(2)(iv)(*c*) and 9 CFR 381.10(d)(2)(iv)(*c*) provides product and handling limitations. These limitations include: (a) Shipment of fully cooked, ready-to-eat products only; (b) no intervening transfer or storage of products between the processing establishment and the site where meals are served to consumers; and (c) transportation only by employees of the processing firm to its satellite restaurants. The adulteration and misbranding provisions of the PPIA and regulations, other than the official inspection legend, apply to the exempted articles prepared in retail stores, restaurants, and similar retail-type establishments. As previously discussed, the adulteration and misbranding provisions of the FMIA and regulations, other than the official inspection legend, apply to all exempted meat articles.

No prior approval from FSIS is required to operate in an exempt status. Adhering to the limitations on operations and sales peculiar to the specific exemption and conforming to any facilities and labeling requirements establish the exemption. The regulatory conditions of these exemptions from inspection requirements were all developed with a recognition that the conditions should fit into an overall scheme of government regulations at the Federal, State, and local level. Existing inspection or regulatory authority and standards, already imposed on businesses and individuals by Federal, State or local governments, should be given full weight in establishing further regulatory conditions, such as those to be developed by FSIS in order to implement the exemption provisions mandated by Public Law 102–237. It is recognized that: FSIS, through its Compliance Program, monitors the distribution of meat and poultry products in exempted facilities and other operations outside federally inspected establishments.

FSIS exercises authority to detain products which the Agency believes are adulterated or misbranded, whether the products (a) are produced under Federal inspection, (b) conform to an exemption from Federal inspection, or (c) are not produced under Federal inspection and do not conform to an exemption from Federal inspection. FSIS can also seek judicial seizure and condemnation of such products.

State and local officials also inspect handling of food products within their jurisdictions. Officials of the Retail Food Protection Branch, Center for Food Safety and Applied Nutrition, Food and Drug Administration, have advised FSIS that State and local governments have inspection and sanitation ordinances which substantially conform to the model food service sanitation ordinance contained in the Food Service Sanitation Manual, DHEW Publication No. (FDA) 78–2081.[1] The Food Service Sanitation Manual encourages the food and beverage industry to develop and maintain food service sanitation programs that are based on uniform, nationally accepted public health principles and standards. The manual sets forth provisions on food handling and preparation, employee health, sanitation of equipment and utensils, sanitary facilities and controls, construction and maintenance of physical facilities, operation of mobile food units or pushcarts, operation of temporary food service establishments, and compliance procedures.

In Federal regulations, as previously discussed, custom exempt activity is the only exempt activity for which specific facility, equipment, and sanitation requirements are established. Significant factors differentiating custom slaughter and processing from other exempt operations are the source and character of the livestock or poultry, or products therefrom, to be slaughtered or processed, and the nature of slaughter operations. Livestock or poultry custom slaughtered are not subjected to ante-mortem or post-mortem government inspection. Products custom processed are usually not derived from livestock or poultry slaughtered under inspection. The likelihood of the livestock or poultry, or products therefrom, being contaminated is greater because of its uncertain origin and handling. Therefore, it is important that facilities, equipment, and sanitation requirements in such custom establishments be such that risk of cross-contamination is minimized. Operations for slaughter of livestock are also significantly different in character from other food service operations. The processes involved in slaughter operations include, in part, stunning the animal, hoisting and bleeding the animal, removing the hide, eviscerating the animal, and splitting the carcass. Since food service operations are unlike custom slaughter and processing operations, it would be inappropriate to apply the Federal facility and sanitation requirements applicable to such custom slaughter and processing establishments to establishments preparing pizzas to be exempt from inspection under Public Law 102–237.

The operations judged by the Agency to be most similar to the proposed exempt pizza operations are those conducted under the "restaurant central kitchen" exemption. The restaurant central kitchen exemption was structured to include more complex processing operations than anticipated under the pizza exemption. The restaurant central kitchen operations are conducted in a similar environment to that presumed in the proposed pizza exemption. In fact, the restaurant central kitchen exemption could apply to some operations at pizza restaurants. Under that exemption, a pizza restaurant could prepare any meat or poultry product in a cooked and ready-to-eat form for transportation by its employees to another restaurant under the same ownership or control, for service to consumers at that site, without any intervening transfer or storage. A pizza restaurant could produce a wide range of meat and poultry products for that limited distribution. The operating characteristics, which necessarily differentiate activity under the proposed pizza exemption from the restaurant central kitchen activity, are that the exemption would only apply to pizzas conforming to provisions for the use of specific types of inspected toppings, and that such products would be sold for service in public or private nonprofit institutions, and not just in their own restaurants. There are additional features of the restaurant central kitchen exemption that are not contradictory to the provisions of the authorizing legislation for the pizza exemption. These include the requirement that the products be cooked and ready-to-eat when they leave the restaurant central kitchen, and the prohibition on intervening transfer or storage before delivery and service to consumers. The former feature is a legislated requirement of the restaurant central

[1] A copy of this manual is available for public review in the FSIS Hearing Clerk's Office.

kitchen exemption; the latter was established through regulation.

Proposal

The proposed rule would define the term "ready-to-eat" in two contexts. First, as it applies to the meat or poultry food product components which would be used in the formulation of the exempt pizzas. Second, as it pertains to the finished pizza product. In the first context, "ready-to-eat" would be defined as "no further cooking or other preparation is needed." This means that the only permitted operation would be the placement of the meat or poultry item on the pizza. No cooking, slicing or grinding would be permitted before the pizza is fully formulated. This limitation on the handling of the meat or poultry product component would lessen the likelihood of mishandling.

The proposed rule would adopt a significant feature of the restaurant central kitchen exemption to address ready-to-eat in the second context. As applied to exempt pizza products, it would require that pizzas be transported as ready-to-eat; i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation.

The Agency is proposing transportation requirements for such pizzas to lessen the likelihood of product mishandling which, in turn, could result in product adulteration. The proposed rule would require that pizzas be transported directly from the pizza restaurant to the site where they are to be served without any intervening storage or transfer between conveyances. This requirement is also modeled on a feature of the restaurant central kitchen exemption. In this application, transportation could be made by employees of the preparing restaurant, the receiving institution, or a food service management company contracted to conduct food service at the public or private nonprofit institution. This would accommodate the transport of product by employees of the public or private nonprofit institution or contracted food service management company.

The facilities and operations of businesses which would produce products under this exemption are already subject to State and local health and sanitation ordinances. FSIS expects facilities and operations of businesses claiming this exemption to meet the high standards for food safety and sanitation included in the FDA's Food Service Sanitation Manual. Such provisions include requirements for food care; personnel; equipment and utensils; cleaning, sanitization, and storage of equipment and utensils; sanitary facilities and controls; construction and maintenance of physical facilities; mobile food units or pushcarts; and temporary food service. The proposed rule would make conformance to these provisions a condition for producing and selling products under this exemption. Therefore, this proposed rule would incorporate by reference the definitions at chapter 1, 1–102, and the provisions of chapters 2 through 9, except section 4–208, part IV, of the Food Service Sanitation Manual (1976 Recommendations), DHEW Publication No. (FDA) 78–2081. In the interest of food safety and public health, section 4–208, Existing equipment, is not being incorporated by reference. FSIS does not intend to exempt any equipment from the design and fabrication requirements in chapter 4. The incorporation by reference material is included as Appendix A to this proposal. Conformance to these provisions and to the limitations on operations and handling established in the proposal would ensure food safety and protect public health. Also, establishing these provisions as a condition for operating under this exemption would provide the Administrator with objective criteria for determining whether an exemption should be modified or withdrawn in specific cases.

Products exempt from inspection requirements under this proposed rule would still be subject to the adulteration and misbranding provisions of the Acts and regulations. As previously discussed, the Federal meat inspection regulations already provide that any article exempted from Federal inspection is subject to the adulteration and misbranding provisions of the FMIA and regulations, except the requirement for the official inspection legend (9 CFR 303.1(e)). However, the poultry products inspection regulations do not contain such a provision covering all articles exempted from the PPIA and regulations. Therefore, this proposal would add a provision to the poultry products inspection regulations that pizzas exempt under this proposal would be subject to the adulteration and misbranding provisions of the PPIA and regulations. As applied under this proposed exemption, the misbranding provisions would require that pizzas with meat or poultry components conform to standards of identity or composition if they are to be labeled as meat or poultry pizzas. For example, if a product were to be labeled "pepperoni pizza," it would have to contain 10 percent pepperoni. If the pepperoni content in a product produced under this exemption were less than 10 percent, it would have to be labeled as "imitation" or, if nutritionally equivalent to a pepperoni pizza, by a descriptive name, such as "Pizza (contains X% Pepperoni; Pepperoni Pizza contains 10% Pepperoni)."

The proposed rule would provide that the Administrator of FSIS may withdraw or modify the exemption for a particular establishment when he or she determines that such action is necessary to ensure food safety and public health. Before any withdrawal or modification, FSIS would inform the owner or operator of the particular establishment of the reasons for the proposed action. The owner or operator of the particular establishment would be given an opportunity to respond, in writing, to the Administrator within 20 days after notification of the proposed action. In those instances where there is conflict of any material fact, the owner or operator of the establishment, upon request, would be afforded an opportunity for a hearing with respect to the disputed fact, in accordance with rules of practice which would be adopted for any such proceeding.

However, the proposed rule would also provide that when the Administrator of FSIS determines that an imminent threat to food safety or public health exists, and that such action is, therefore, necessary, the Administrator may summarily withdraw or modify the exemption for a particular establishment. Under this summary authority, the withdrawal or modification would become effective pending final determination in the proceeding. The proposed rule would make such withdrawal or modification effective upon oral or written notification to the owner or operator of the particular establishment. This withdrawal or modification would continue in effect pending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Administrator.

The proposed rule would define "private nonprofit institution" as "a corporation, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on

propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office." This definition, which is taken from section 501(c)(3) of title 26 of the Internal Revenue Code, is consistent with definitions adopted by the Department in determining nonprofit status in its implementation of grant programs under the Child Nutrition Acts. The Agency believes that this definition would include those institutions operating nonprofit food services under the National School Lunch Program and other similar food service operations.

Alternative Proposals Presented to FSIS

Late in the development of its proposal, FSIS received a petition from Pizza Hut, Inc., and a petition from the Community Nutrition Institute and others. These petitions contain alternative proposals for implementing Public Law 102-237. These two proposals advocate approaches significantly different from FSIS's proposal. The Agency has included them as Appendices B and C to this proposal. These appendices are not being proposed or endorsed by the Agency, and are included only as background information.

For the reasons discussed in the preamble, FSIS is proposing to amend 9 CFR parts 303 and 381 of the Federal meat and poultry products inspection regulations to read as follows:

List of Subjects

9 CFR 303

Exemptions, Incorporation by reference, Meat inspection.

9 CFR 381

Exemptions, Incorporation by reference, Poultry inspection.

PART 303—EXEMPTIONS

1. The authority citation for part 303 would continue to read as follows:

Authority: 21 U.S.C. 601-695; 7 CFR 2.17, 2.55.

2. Section 303.1 would be amended by redesignating paragraphs (e) and (f) as (f) and (g), respectively, and adding a new paragraph (e) to read as follows:

§ 303.1 Exemptions.

* * * * *

(e)(1) The requirements of the Act and the regulations in this subchapter for inspection of the preparation of products do not apply to meat pizzas containing meat food product ingredients which were prepared, inspected, and passed in a cured or cooked form as ready-to-eat (i.e., no further cooking or other preparation is needed) in compliance with the requirements of the Act and these regulations; and the meat pizzas are to be served in public or private nonprofit institutions, provided that the meat pizzas are ready-to-eat (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation), transported directly to the receiving institution by employees of the preparing firm, receiving institution, or a food service management company contracted to conduct food service at the public or private nonprofit institution, without intervening transfer or storage.

(2) The definitions at chapter 1, 1-102, and the provisions of chapters 2 through 9, except section 4-208, part IV, of the Food and Drug Administration's Food Service Sanitation Manual (1976 Recommendations), DHEW Publication No. (FDA) 78-2081, which is incorporated by reference, shall apply to the facilities and operations of businesses claiming this exemption. (These materials are incorporated as they exist on the date of approval. Copies may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is also available for inspection at the office of the Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.)

(3) For purposes of this paragraph, the term "private nonprofit institution" means "a corporation, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

(4) The Administrator may withdraw or modify the exemption set forth in § 303.1(e)(1) for a particular establishment when he or she determines that such action is necessary to ensure food safety and public health. Before such action is taken, the owner or operator of the particular establishment shall be notified, in writing, of the reasons for the proposed action and shall be given an opportunity to respond, in writing, to the Administrator within 20 days after notification of the proposed action. The written notification shall be served on the owner or operator of the establishment in the manner prescribed in § 1.147(b) of the Department's Uniform Rules of Practice (7 CFR 1.147(b)). In those instances where there is conflict of any material fact, the owner or operator of the establishment, upon request, shall be afforded an opportunity for a hearing with respect to the disputed fact, in accordance with rules of practice which shall be adopted for the proceeding. However, such withdrawal or modification shall become effective pending final determination in the proceeding when the Administrator determines that an imminent threat to food safety or public health exists, and that such action is, therefore, necessary to protect the public health, interest or safety. Such withdrawal or modification shall be effective upon oral or written notification, whichever is earlier, to the owner or operator of the particular establishment as promptly as circumstances permit. In the event of oral notification, written confirmation shall be given to the owner or operator of the establishment as promptly as circumstances permit. This withdrawal or modification shall continue in effect pending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Administrator.

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 would continue to read as follows:

Authority: 7 U.S.C. 450, 21 U.S.C. 451-470, 7 CFR 2.17, 2.55.

4. Section 381.10 would be amended by adding a new paragraph (e) to read as follows:

§ 381.10 Exemptions.

* * * * *

(e)(1) The requirements of the Act and the regulations in this subchapter for inspection of the preparation of products do not apply to poultry pizzas containing poultry product ingredients which were prepared, inspected, and passed in a cured or cooked form as

ready-to-eat (i.e., no further cooking or other preparation is needed) in compliance with the requirements of the Act and these regulations; and the poultry pizzas are to be served in public or private nonprofit institutions, provided that the poultry pizzas are ready to eat (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation), transported directly to the receiving institution by employees of the preparing firm, receiving institution, or a food service management company contracted to conduct food service at the public or private nonprofit institution, without intervening transfer or storage.

(2) The definitions at chapter 1, 1–102, and the provisions of chapters 2 through 9, except section 4–208, part IV, of the Food and Drug Administration's Food Service Sanitation Ordinance (1976 Recommendations), DHEW Publication No. (FDA) 78–2081, which is incorporated by reference, shall apply to the facilities and operations of businesses claiming this exemption. (These materials are incorporated as they exist on the date of approval. Copies may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is also available for inspection at the office of the Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.)

(3) For purposes of this paragraph, the term "private nonprofit institution" means "a corporation, and any community chest, fund, or foundation, organized and operated exclusively for religious charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earninqs of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

(4) The Administrator may withdraw or modify the exemption set forth in § 381.10(e)(1) for a particular establishment when he or she determines that such action is necessary to ensure food safety and public health. Before such action is taken, the owner or operator of the particular establishment shall be notified, in writing, of the reasons for the proposed action and shall be given an opportunity to respond, in writing, to the Administrator within 20 days after notification of the proposed action. The written notification shall be served on the owner or operator of the establishment in the manner prescribed in § 1.147(b) of the Department's Uniform Rules of Practice (7 CFR 1.147(b)). In those instances where there is conflict of any material fact, the owner or operator of the establishment, upon request, shall be afforded an opportunity for a hearing with respect to the disputed fact, in accordance with rules of practice which shall be adopted for the proceeding. However, such withdrawal or modification shall become effective pending final determination in the proceeding when the Administrator determines that an imminent threat to food safety or public health exists, and that such action is, therefore, necessary to protect the public health, interest or safety. Such withdrawal or modification shall be effective upon oral or written notification, whichever is earlier, to the owner or operator of the particular establishment as promptly as circumstances permit. In the event of oral notification, written confirmation shall be given to the owner or operator of the establishment as promptly as circumstances permit. This withdrawal or modification shall continue in effect pending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Administrator.

(5) The adulteration and misbranding provisions of the Act and the regulations apply to articles which are exempted from inspection under § 381.10(e).

Done at Washington, DC, on: May 6, 1992.

H. Russell Cross,

Administrator, Food and Safety Inspection Service.

Note: This appendix will not appear in the Code of Federal Regulations.

Appendix A—Part IV Food Service Sanitation Ordinance (1976 Recommendations)

Chapter One—General Provisions

1–102 Definitions.

For the purpose of this ordinance:

(a) *Commissary* means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

(b) *Corrosion-resistant materials* means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions-of-use environment.

(c) *Easily cleanable* means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

(d) *Employee* means the permit holder, individuals having supervisory or management duties and any other person working in a food service establishment.

(e) *Equipment* means stoves, ovens, ranges, hoods, slicers, mixers, meatblocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items other than utensils, used in the operation of a food service establishment.

(f) *Food* means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

(g) *Food-contact surface* means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.

(h) *Food processing establishment* means a commercial establishment in which food is manufactured or packaged for human consumption. The term does not include a food service establishment, retail food store, or commissary operation.

(i) *Food service establishment* means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes delicatessen-type operations that prepare sandwiches intended for individual portion service. The term does not include private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines, and supply vehicles.

(j) *Hermetically sealed container* means a container designed and intended to be secure against the entry of microorganisms and to maintain the

commercial sterility of its content after processing.

(k) *Kitchenware* means all multi-use utensils other than tableware.

(l) *Law* includes Federal, State, and local statutes, ordinances, and regulations.

(m) *Mobile food unit* means a vehicle-mounted food service establishment designed to be readily movable.

(n) *Packaged* means bottled, canned, cartoned, or securely wrapped.

(o) *Person* includes any individual, partnership, corporation, association, or other legal entity.

(p) *Person in charge* means the individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

(q) *Potentially hazardous food* means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odor-free shell eggs or foods which have a pH level of 4.6 or below or a water activity (a_w) value of 0.85 or less.

(r) *Pushcart* means a non-self-propelled vehicle limited to serving nonpotentially hazardous foods or commissary-wrapped food maintained at proper temperatures, or limited to the preparation and serving of frankfurters.

(s) *Reconstituted* means dehydrated food products recombined with water or other liquids.

(t) *Regulatory authority* means the State and/or local enforcement authority or authorities having jurisdiction over the food service establishment.

(u) *Safe materials* means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If materials used are food additives or color additives as defined in section 201 (s) or (t) of the Federal Food, Drug, and Cosmetic Act they are "safe" only if they are used in conformity with regulations established pursuant to section 409 or section 706 of the Act. Other materials are "safe" only if, as used, they are not food additives or color additives as defined in section 201 (s) or (t) of the Federal Food, Drug, and Cosmetic Act and are used in conformality with all applicable regulations of the Food and Drug Administration.

(v) *Sanitation* means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

(w) *Sealed* means free of cracks or other openings that permit the entry or passage of moisture.

(x) *Single-service articles* means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks and similar articles intended for one-time, one-person use and then discarded.

(y) *Tableware* means multi-use eating and drinking utensils.

(z) *Temporary food service establishment* means a food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration.

(aa) *Utensil* means any implement used in the storage, preparation, transportation, or service of food.

1–103 Captions.

Section and other captions are part of this ordinance.

1–104 Repealer.

This ordinance is effective 12 months after its adoption and publication in accordance with law. At that time, all ordinances and parts of ordinances that conflict with this ordinance are repealed.

1–105 Separability.

If any provision or application of any provision of this ordinance is held invalid, that invalidity shall not affect other provisions or applications of this ordinance.

Chapter Two—Food Care

Food Supplies

2–101 General.

Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

2–102 Special requirements.

(a) Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the Grade A quality standards as established by law. Dry milk and dry milk products shall be made from pasteurized milk and milk products.

(b) Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be packed in non-returnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the interstate certification number issued according to law. Shell stock and shucked shellfish shall be kept in the container in which they were received until they are used. Each container of unshucked shell stock (oysters, clams, or mussels) shall be identified by an attached tag that states the name and address of the original shell stock processor, the kind and quantity of shell stock, and an interstate certification number issued by the State or foreign shellfish control agency.

(c) Only clean whole eggs, with shell intact and without cracks or checks, or pasteurized liquid, frozen, or dry eggs or pasteurized dry egg products shall be used, except that hard-boiled, peeled eggs, commercially prepared and packaged, may be used.

Reason: To control foodborne illness and prevent food spoilage, which may result from improperly processed, handled, or transported food, food service establishments must be concerned with the sources of the food they use. The sound condition, proper labeling, and safety of food are basic requirements for the protection of the public health. Accordingly, the provisions of this section are intended to ensure that food in general, especially potentially hazardous food, is obtained from sources considered satisfactory by the regulatory authority.

The use of hermetically sealed, noncommercially packaged food is prohibited because of the history of such food in causing foodborne illness. Additional specific requirements for food supplies, such as the pasteurization of milk and milk products or the use of only clean, whole-shell eggs, are included because these products are exceptionally good media for the growth of pathogens. Labeling requirements, particularly for shellfish, provide assurance that the source of any such food is under the control of a regulatory authority, thus providing for the protection of the public health.

Food Protection

2–201 General.

At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected

from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage or overhead drippage from condensation. The temperature of potentially hazardous food shall be 45 °F or below or 140 °F or above at all times, except as otherwise provided in this ordinance.

2–202 Emergency occurrences.

In the event of a fire, flood, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the regulatory authority. Upon receiving notice of this occurrence, the regulatory authority shall take whatever action that it deems necessary to protect the public health.

Reason: Food, if mishandled, can become contaminated with filth, pathogenic microorganisms and toxic chemicals from a number of sources. Therefore, food protection measures are designed to protect food from being contaminated at all times within the establishment and during transportation These measures are also intended to prevent the rapid and progressive growth of disease-causing organisms that are naturally present in foods as well as those introduced through incidental contamination in the operation of a food service establishment.

Proper food protection measures should include:

(1) Application of good sanitation practices in the handling of food.

(2) Strict observation of personal hygiene by all food service employees.

(3) Keeping potentially hazardous food refrigerated or heated to temperatures that minimize the growth of pathogenic microorganisms;

(4) Inspecting food products as to their sanitary condition prior to, acceptance at the establishment; and

(5) Provision of adequate equipment and facilities for the conduct of sanitary operations.

Food Storage

2–301 General.

(a) Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean covered container except during necessary periods of preparation or service. Container covers shall be impervious and nonabsorbent, except that linens or napkins may be used for lining or covering bread or roll containers. Solid cuts of meat shall be protected by being covered in storage, except that quarters or sides of meat may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat.

(b) Containers of food shall be stored a minimum of 6 inches above the floor in a manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area, except that:

(1) Metal pressurized beverage containers, and cased food packaged in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture; and

(2) Containers may be stored on dollies, racks or pallets, provided such equipment is easily movable.

(c) Food and containers of food shall not be stored under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms or vestibules is prohibited.

(d) Food not subject to further washing or cooking before serving shall be stored in a way that protects it against cross-contamination from food requiring washing or cooking.

(e) Packaged food shall not be stored in contact with water or undrained ice. Wrapped sandwiches shall not be stored in direct contact with ice.

(f) Unless its identity is unmistakable, bulk food such as cooking oil, syrup, salt, sugar or flour not stored in the product container or package in which it was obtained, shall be stored in a container identifying the food by common name.

2–302 Refrigerated storage.

(a) Enough conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of potentially hazardous food at required temperatures during storage. Each mechanically refrigerated facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to ±30 °F, located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording thermometers, accurate to ±3 °F, may be used in lieu of indicating thermometers.

(b) Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 45 °F or below. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled, utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container so that the cooling period shall not exceed 4 hours. Potentially hazardous food to be transported shall be prechilled and held at a temperature of 45 °F or below unless maintained in accordance with section 2–303 of this ordinance.

(c) Frozen food shall be kept frozen and should be stored at a temperature of 0 °F or below.

(d) Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers or food utensils, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption.

2–303 Hot Storage.

(a) Enough conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to ±3 °F, located to measure the air temperature in the coolest part of the facility and located to be easily readable. Recording thermometers, accurate to ±3 °F, may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as bainmaries, steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a product thermometer must be available and used to check internal food temperature.

(b) The internal temperature of potentially hazardous foods requiring hot storage shall be 140 °F or above except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of 140 °F or above unless maintained in accordance with paragraph (b) of section 2–302 of this ordinance.

Reason: Proper storage of food assures that there will be minimal contamination of the food from any source, and that the natural growth of microorganisms in the food will not result in foodborne illness. Therefore, measures to prevent the contamination of food must consider the environment in which food is stored and the potential for contamination under these conditions.

These measures are divided into several basic categories which include:

(1) *Containers.* Food must be covered in order to provide physical protection of the food. In addition, these covers must be impervious and nonabsorbent to eliminate the possibility of the container being a vector for contamination.

(2) *Location.* Food must be stored in a manner that permits cleaning of the storage area and in locations that do not result in a high risk of contamination from other food or from the conduct of normal operations.

(3) *Labeling.* To avoid the inadvertent contamination of food in the preparation process, bulk ingredients must be labeled to prevent confusion due to possible similar appearances.

(4) *Temperature.* Proper storage temperatures, and the availability of facilities to maintain temperatures are the best available means to control the growth of pathogens. A means for continuously monitoring air (ambient) temperatures is provided by requiring thermometers in or on the equipment.

(5) *Cooling.* Since any temperature between 45 °F and 140 °F presents a hazard to public health in terms of microbial growth, food must remain in the critical temperature zone as little time as possible. The parameters defining the cooling period for foods in storage following preparation set forth procedures and conditions that minimize risk to the public health.

Food Preparation

2–401 General.

Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross-contamination.

2–402 Raw fruits and raw vegetables.

Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.

2–403 Cooking potentially hazardous foods.

Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 140 °F, except that:

(a) Poultry, poultry stuffings, stuffed meats and stuffings containing meat shall be cooked to heat all parts of the food to at least 65 °F with no interruption of the cooking process.

(b) Pork and any food containing pork shall be cooked to heat all parts of the food to at least 150 °F.

(c) Rare roast beef shall be cooked to an internal temperature of at least 130 °F, and rare beef steak shall be cooked to a temperature of 130 °F unless otherwise ordered by the immediate consumer.

2–404 Dry milk and dry milk products.

Reconstituted dry milk and dry milk products may be used in instant desserts and whipped products, or for cooking and baking purposes.

2–405 Liquid, frozen, dry eggs and egg products.

Liquid, frozen, dry eggs and egg products shall be used only for cooking and baking purposes.

2–406 Reheating.

Potentially hazardous foods that have been cooked and then refrigerated, shall be reheated rapidly to 165 °F or higher throughout before being served or before being placed in a hot food storage facility. Steam tables, bainmaries, warmers, and similar hot food holding facilities are prohibited for the rapid reheating of potentially hazardous foods.

2–407 Nondairy products.

Nondairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one gallon in capacity and cooled to 45 °F or below within 4 hours after preparation.

2–408 Product thermometers.

Metal stem-type numerically scaled indicating thermometers, accurate to ±2 °F, shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods.

2–409 Thawing potentially hazardous foods.

Potentially hazardous foods shall be thawed:

(a) In refrigerated units at a temperature not to exceed 45 °F; or

(b) Under potable running water of a temperature of 70 °F or below, with sufficient water velocity to agitate and float off loose food particles into the overflow; or

(c) In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, interrupted cooking process takes place in the microwave oven; or

(d) As part of the conventional cooking process.

Reason: Food preparation is the process during which food is least protected due to necessary manipulation and is subjected to potential contamination from many sources within the establishment. Once the food has been contaminated, improper procedures for cooking, reheating or cooling permit the survival as well as the rapid and progressive growth of pathogenic microorganisms. Without adherence to proper sanitary procedures and the maximum use of adequate utensils and facilities, the preparation of a sound, appealing food is impossible.

The preparation process should include:

(1) Strict observation of personal hygiene by all food service employees;

(2) Continuous application of sanitary food-handling techniques;

(3) Cooking and reheating procedures that ensure pathogen destruction;

(4) Thorough washing of all foods to be consumed in the raw state; and

(5) Minimal handling of the food before, during and after preparation.

Food Display and Service

2–501 Potentially hazardous food.

Potentially hazardous food shall be kept at an internal temperature of 45 °F or below or at an internal temperature of 140 °F or above during display and service, except that rare roast beef shall be held for service at a temperature of at least 130 °F.

2–502 Milk and cream dispensing.

(a) Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding 1 pint in capacity, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser. Where a bulk dispenser for milk and milk products is not available and portions of less than ½ pint are required for mixed drinks, cereal, or dessert service, milk and milk products may be poured from a commercially filled container of not more than ½-gallon capacity.

(b) Cream or half and half shall be provided in an individual service container, protected pour type pitcher, or drawn from a refrigerated dispenser designed for such service.

2–503 Nondairy product dispensing.

Nondairy creaming or whitening agents shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

2–504 Condiment dispensing.

(a) Condiments, seasonings and dressings for self-service use shall be provided in individual packages, from dispensers, or from containers protected

in accordance with section 2–508 of this ordinance.

(b) Condiments provided for table or counter service shall be individually portioned, except that catsup and other sauces may be served in the original container or pour-type dispenser. Sugar for consumer use shall be provided in individual packages or in pour-type dispensers.

2–505 Ice dispensing.

Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice dispensing utensils or through automatic self-service, ice-dispensing equipment.

Ice-dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap.

2–506 Dispensing utensils.

To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses during service, dispensing utensils shall be:

(a) Stored in the food with the dispensing utensil handle extended out of the food; or

(b) Stored clean and dry; or

(c) Stored in running water; or

(d) Stored either in a running water dipper well, or clean and dry in the case of dispensing utensils and malt collars used in preparing frozen desserts.

2–507 Re-service.

Once served to a consumer, portions of leftover food shall not be served again except that packaged food, other than potentially hazardous food, that is still packaged and is still in sound condition, may be re-served.

2–508 Display equipment.

Food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protector devices, display cases, or by other effective means. Enough hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display.

2–509 Re-use of tableware.

Re-use of soiled tableware by self-service consumers returning to the service area for additional food is prohibited. Beverage cups and glasses are exempt from this requirement.

Reason: Contamination of, and microbial growth in, food during service and display results from contaminated equipment, improper control of food temperatures, or insanitary display and service procedures that fail to provide adequate protection for food. Any lapse in sanitary procedures during this stage can negate all the effort in buying, storing, and preparing a quality product that is both esthetically pleasing and safe for human consumption.

The sanitary requirements for the display and service of food to the consumer must address themselves to two basic areas to provide the necessary protection of the food offered to the consumer. First, the protection of food from external contamination and from the rapid and progressive growth of microorganisms must be assured by directing the efforts of the establishment's employees toward sanitary practices in service and display. Second, protection of food from the consuming public during the display and service process necessitates requirements such as protector devices and good operational procedures for dispensing that preclude any incidental contamination.

Food Transportation

2–601 General.

During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of this ordinance relating to food protection and food storage.

Reason: The protection of food from contamination and the maintenance of food at the proper temperatures are critical for the safety and quality of transported food. The special circumstances that arise during the transportation of food make the protection of the food and the maintenance of proper temperatures very difficult and correspondingly increase the possibility of contamination and microbial growth. For these reasons, special attention to sanitary requirements is essential during the food transportation process to provide the necessary protection to the consumer.

Chapter Three—Personnel

Employee Health

3–101 General.

No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a food service establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.

Reason: Disease transmitted through food frequently originates from an infected food service employee even though the employee shows little outward appearance of being ill. A wide range of communicable diseases and infections may be transmitted by infected food service personnel to other employees and to the consumer through the contamination of food and through careless food-handling practices. It is the responsibility of both management and staff to see that no person who is affected with any disease that can be transmitted by food works in any area of a food service establishment where there is a possibility of disease transmission.

Personal Cleanliness

3–201 General.

Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Employees shall keep their fingernails clean and trimmed.

Reason: In order to prevent the contamination of food and food-contact surfaces, and the resulting potential transmission of foodborne illness, it is essential that employees observe strict standards of cleanliness and proper hygiene during their working periods and before starting work or returning to work after any interruption of their food service activities.

Clothing

3–301 General.

(a) The outer clothing of all employees shall be clean.

(b) Employees shall use effective hair restraints to prevent the contamination of food or food-contact surfaces.

Reason: Hair restraints and the clothing of food service employees play important roles in the prevention of food

contamination and food-contact surface contamination. Because of this, hair should be restrained to prevent any possibility of its entering into food. Employees also must not wear clothing that is obviously soiled or difficult to keep clean, because food may be repeatedly contaminated by food debris or other soil from the clothing of food handlers.

Employee Practices

3–401 General.

(a) Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination of other food, equipment, utensils, or other items needing protection.

(b) Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in areas used for equipment or utensil washing or for food preparation. Employees shall use tobacco only in designated areas. An employee tobacco-use area shall not be designated for that purpose if the use of tobacco there may result in contamination of food, equipment, utensils, or other items needing protection.

(c) Employees shall handle soiled tableware in a way that minimizes contamination of their hands.

(d) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food service establishment.

Reason: The overall cleanliness and observation of good hygienic practices by an employee include not only the personal cleanliness of the employee, but also the way he performs his routine duties. This creates a situation where both factors are interdependent, since an unclean employee cannot handle food in a sanitary fashion, and, in a work situation, any employee soon accumulates excessive soil if proper sanitary procedures are not observed. Smoking or eating by employees anywhere but in designated areas is prohibited because of the probability of contamination of food and food-contact surfaces by the employees as a result of these activities.

Insanitary and unsightly personal practices such as scratching the head, placing the fingers in or about the mouth or nose, or indiscriminate and uncovered sneezing or coughing may not only result in contamination of the food, but may adversely affect consumer confidence in the establishment. Careless handling of, and unnecessary contact with, the soiled surfaces of tableware or linens should be avoided because it unnecessarily exposes employees to health hazards and increases the possibility of disease transmission, to the consumers.

Chapter Four—Equipment and Utensils

Materials

4–101 General.

Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion resistant and nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single-service articles shall not impart odors, color, or taste, nor contribute to the contamination of food.

4–102 Solder.

If solder is used, it shall be composed of safe materials and be corrosion resistant.

4–103 Wood.

Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in section 4–101 of this ordinance may be used for cutting blocks, cutting boards, salad bowls, and baker's tables. Wood may be used for single-service articles, such as chop sticks, stirrers, or ice cream spoons. The use of wood as a food-contact surface under other circumstances is prohibited.

4–104 Plastics.

Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements set forth in section 4–101 of this ordinance, are permitted for repeated use.

4–105 Mollusk and crustacea shells.

Mollusk and crustacea shells may be used only once as a serving container. Further re-use of such shells for food service is prohibited.

4–106 Single service.

Reuse of single service articles is prohibited.

Reason: Food poisoning has occurred as a result of the ingestion of acidic food or drink which has been in contact with equipment or utensils containing such metals and/or their salts, such as cadmium, lead, and zinc. Therefore, the product surfaces of equipment, utensils, and single service articles must be nontoxic and must not cause prohibited food additives to migrate into food, nor present uncleanable surfaces due to poor design or poor durability under use conditions.

Design and Fabrication

4–201 General.

All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing.

(a) Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills, griddle tops, and skillets. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers or hot oil cooking equipment and hot oil filtering systems, such threads shall be minimized.

(b) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces.

(c) Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice: Provided, That such tubing is fabricated from safe materials, is grommeted at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.

(d) Sinks and drain boards shall be self-draining.

4–202 Accessibility.

Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection:

(a) Without being disassembled; or

(b) By disassembling without the use of tools; or

(c) By easy disassembling with the use of only simple tools such as a mallet, a screwdriver, or an open-end wrench kept available near the equipment.

4–203 In-place cleaning.

Equipment intended for in-place cleaning shall be so designed and fabricated that:

(a) Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and

(b) Cleaning and sanitizing solutions will contact all interior food-contact surfaces; and

(c) The system is self-draining or capable of being completely evacuated.

4–204 Pressure spray cleaning.

Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches, and connections.

4–205 Thermometers.

Indicating thermometers required for immersion into food or cooking media shall be of metal stem type construction, numerically scaled, and accurate to ±2°F.

4–206 Non-food-contact surfaces.

Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

4–207 Ventilation hoods.

Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food-contact surfaces.

Filters or other grease extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place.

Reason: Equipment and utensils that do not meet the design and fabrication requirements of this ordinance are difficult to clean thoroughly and permit accumulations of food and other soil which support bacterial growth. Accumulations of food or other soil in difficult-to-clean places on equipment may also create an insect and rodent control problem, and may cause unpleasant odors.

While it would be desirable from a public health standpoint to require prompt replacement of equipment in an existing establishment that does not meet the design and fabrication requirements of this ordinance, such an approach is not economically practicable. Continued use of equipment that does not meet the requirements is appropriate if it is in good repair, capable of being maintained in a sanitary condition, and has nontoxic food-contact surfaces. Replacement and new equipment should, of course, meet all requirements of this ordinance.

Equipment Installation and Location

4–301 General.

Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines or water lines, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads that may be required by law.

4–302 Table mounted equipment.

(a) Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a 4-inch clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

(b) Equipment is portable within the meaning of section 4–302(a) of this ordinance if:

(1) It is small and light enough to be moved easily by one person; and

(2) It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

4–303 Floor-mounted equipment.

(a) Floor-mounted equipment, unless readily movable, shall be:

(1) Sealed to the floor; or

(2) Installed on a raised platform of concrete or other smooth masonry in a way that meets all the requirements for sealing or floor clearance; or

(3) Elevated on legs to provide at least a 6-inch clearance between the floor and equipment, except that vertically mounted floor mixers may be elevated to provide at least a 4-inch clearance between the floor and equipment if no part of the floor under the mixer is more than 6 inches from cleaning access.

(b) Equipment is easily movable if:

(1) It is mounted on wheels or casters; and

(2) It has no utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.

(c) Unless sufficient space is provided for easy cleaning between, behind and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall be not more than 1/32 inch; or if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls or ceilings.

4–304 Aisles and working spaces.

Aisles and working spaces between units of equipment and walls shall be obstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.

Reason: Equipment must be installed and located to prevent contamination of food and food-contact surfaces, and to permit the thorough cleaning of the equipment and adjacent surfaces.

The proper installation and location of equipment reduces the probability of equipment interfaces and adjacent surfaces being potential factors in food contamination by eliminating soil buildup and insect or rodent harborage since these interfaces and surfaces are either easily accessible for thorough cleaning or are sealed to adjoining surfaces to prevent the accumulation of soil.

Chapter Five—Cleaning, Sanitation and Storage of Equipment and Utensils

Equipment and Utensil Cleaning and Sanitation

5–101 Cleaning frequency.

(a) Tableware shall be washed, rinsed, and sanitized after each use.

(b) To prevent cross-contamination, kitchenware and food-contact surfaces of equipment shall be washed, rinsed, and sanitized after each use and following any interruption of operations during which time contamination may have occurred.

(c) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces of equipment shall be washed, rinsed, and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation.

(d) The food-contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day; except that this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food-

contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.

(e) Non-food-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

5–102 Wiping cloths.

(a) Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose.

(b) Moist cloths or sponges used for wiping food spills on kitchware and food-contact surfaces of eqipment shall be clean and rinsed frequently in one of the sanitizing solutions permitted in section 5–103 of this ordinance and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

(c) Moist cloths or sponges used for cleaning non-food-contact surfaces of equipment such as counters, dining tables tops, and shelves shall be clean and rinsed as specified in section 5–102 of this ordinance, and used for no other purpose.

(b) These cloths and sponges shall be stored in the sanitizing solution between uses.

5–103 Manual cleaning and sanitizing.

(a) For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.

(b) Drain boards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.

(c) Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.

(d) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:

(1) Sinks shall be cleaned prior to use.

(2) Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean.

(3) Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment.

(4) Equipment and utensils shall be sanitized in the third compartment according to one of the methods included in section 5–103 (e) through (4) of this ordinance.

(e) The food-contact surfaces of all equipment and utensils shall be sanitized by:

(1) Immersion for at least one-half (½) minute in clean, hot water at a temperature of at least 170 °F; or

(2) Immersion for at least one minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and at a temperature of at least 75 °F; or

(3) Immersion for at least one minute in a clean solution containing at least 12.5 parts per million of available iodine and having a pH not higher than 5.0 and at a temperature of at least 75 °F; or

(4) Immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 CFR 178.1010 that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75 °F for one minute; or

(5) Treatment with steam free from materials or additives other than those specified in 21 CFR 173.310 in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

(6) Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under section 5–103(e)(4) of this ordinance in the case of equipment too large to sanitize by immersion.

(f) When hot water is used for sanitizing, the following facilities shall be provided and used:

(1) An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170 °F; and

(2) A numerically scaled indicating thermometer, accurate to ±3 °F, convenient to the sink for frequent checks of water temperature; and

(3) Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

(g) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under 21 CFR 178.1010 and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used.

5–104 Mechanical cleaning and sanitizing.

(a) Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair. Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.

(b) The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse controlvalve. A ¼-inch IPS valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

(c) Machine or water line mounted numerically scaled indicating thermometers, accurate to ±3°F, shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

(d) Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machines.

(e) Drain boards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of easily movable dishtables for the storage of clean utensils following sanitization.

(f) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a prewashcycle is a part of the dishwashing machine operation. Equipment and utensils shall be placed in racks, trays, or baskets, or on conveyors, in a way that food-contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.

(g) Machines (single-tank, stationary-rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used: Provided, that,

(1) The temperature of the wash water shall not be less than 120 °F.

(2) The wash water shall be kept clean.

(3) Chemicals added for sanitization purposes shall be automatically dispensed.

(4) Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration.

(5) The chemical sanitizing rinse water temperature shall be not less than 75 °F nor less than the temperature specified by the machine's manufacturer.

(6) Chemical sanitizers used shall meet the requirements of 21 CFR 178.1010.

(7) A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used.

(h) Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained at not less than the temperature stated in section 5–104(h) (1) through (5) of this ordinance.

(1) Single-tank, stationary-rack, dual-temperature machine:

Wash temperature	150 °F
Final rinse temperature	180 °F

(2) Single-tank, stationary-rack, single-temperature machine:

Wash temperature	165 °F
Final rinse temperature	165 °F

(3) Single-tank, conveyor machine:

Wash temperature	160 °F
Final rinse temperature	180 °F

(4) Multitank, conveyor machine:

Wash temperature	150 °F
Pumped rinse temperature	160 °F
Final rinse temperature	180 °F

(5) Single-tank, pot, pan, and utensil washer (either stationary or moving-rack):

Wash temperature	140 °F
Final rinse temperature	180 °F

(i) All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition.

5–105 Drying.

After sanitization, all equipment and utensils shall be air dried.

Reason: Regular, effective cleaning and sanitizing of equipment, utensils, and work or dining surfaces minimize the probability of contaminating food during preparation, storage, or service, and the transmission of disease organisms to consumers and employees. Effective cleaning will remove soil and prevent the accumulation of food residues which may decompose or support the rapid development of food poisoning organisms or toxins. Application of effective sanitizing procedures destroys those disease organisms which may be present on equipment and utensils after cleaning and prevents the transfer of such organisms to consumers or employees, either directly through tableware such as glasses, cups, and flatware, or indirectly through the food.

Equipment and Utensil Storage

5–201 Handling.

Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contact with inside surfaces or surfaces that contact the user's mouth.

5–202 Storage.

(a) Cleaned and sanitized utensils and equipment shall be stored at least 6 inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

(b) Utensils shall be air dried before being stored or shall be stored in a self-draining position.

(c) Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, wherever practical. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the employee or consumer.

Unless tableware is prewrapped, holders for knives, forks, and spoons at self-service locations shall protect these articles from contamination and present the handle of the utensil to the consumer.

5–203 Single-service articles.

(a) Single-service articles shall be stored at least 6 inches above the floor in closed cartons or containers which protect them from contamination and shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

(b) Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.

(c) Single-service knives, forks and spoons packaged in bulk shall be inserted into holders or be wrapped by an employee who has washed his hands immediately prior to sorting or wrapping the utensils. Unless single-service knives, forks and spoons are prewrapped or prepackaged, holders shall be provided to protect these items from contamination and present the handle of the utensil to the consumer.

5–204 Prohibited storage area.

The storage of food equipment, utensils or single service articles in toilet rooms or vestibules is prohibited.

Reason: Improper storage of equipment and utensils exposes them to contamination from many factors in the storage environment such as splash, dust, or food particulates. Additional contamination may occur as the result of normal employee functions during food preparation or service or consumer handling during self-service if the sanitary requirements for equipment or utensil storage are not observed.

Accordingly, the storage and handling procedures for cleaned and/or sanitized equipment and utensils and single-service articles must be adapted to the protective storage requirements imposed by the varied storage conditions encountered in general storage, storage incidental to food preparation or service, and the storage environment specified by consumer self-service.

Chapter Six—Sanitary Facilities and Controls

Water Supply

6–101 General.

Enough potable water for the needs of the food service establishment shall be provided from a source constructed and operated according to law.

6–102 Transportation.

All potable water not provided directly by pipe to the food service establishment from the source shall be transported in a bulk water transport system and shall be delivered to a closed-water system. Both of these systems shall be constructed and operated according to law.

6–103 Bottled water.

Bottled and packaged potable water shall be obtained from a source that complies with all laws and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

6–104 Water under pressure.

Water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.

6–105 Steam.

Steam used in contact with food or food-contact surfaces shall be free from any materials or additives other than those specified in 21 CFR 173.310.

Reason: Unless of a safe and sanitary quality, water may serve as a source of contamination for food, equipment, utensils, and hands. Unsafe water is also a vector in the transmission of disease. Therefore, in order to provide protection to consumers and employees, water should be obtained from sources regulated by law and should be handled, transported and dispensed in a sanitary manner.

Hot and cold water under pressure is necessary for the thorough cleaning and sanitization of equipment and utensils, for the cleaning of the physical facilities, and for proper employee handwashing.

Sewage

6–201 General.

All sewage, including liquid waste, shall be disposed of by a public sewerage system or by a sewage disposal system constructed and operated according to law. Non-water-carried sewage disposal facilities are prohibited, except as permitted by sections 9–101 through 9–108 of this ordinance (pertaining to temporary food service establishments) or as permitted by the regulatory authority in remote areas or because of special situations.

Reason: Improper disposal of sewage provides a potential for contamination of food, utensils and equipment and, therefore, may cause serious illness or disease outbreaks. Proper disposal is required to prevent contamination of ground surfaces and water supplies, or creation of other insanitary conditions that may attract insects and other vermin.

Plumbing

6–301 General.

Plumbing shall be sized, installed, and maintained according to law. There shall be no cross-connection between the potable water supply and any non-potable or questionable water supply nor any source of pollution through which the potable water supply might become contaminated.

6–302 Nonpotable water system.

A nonpotable water system is permitted only for purposes such as air conditioning and fire protection and only if the system is installed according to law and the nonpotable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

6–303 Backflow.

The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and back siphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixture's flood level rim. A hose shall not be attached to a faucet unless a backflow prevention device is installed.

6–304 Grease traps.

If used, grease traps shall be located to be easily accessible for cleaning.

6–305 Garbage grinders.

If used, garbage grinders shall be installed and maintained according to law.

6–306 Drains.

Except for properly trapped open sinks, there shall be no direct connection between the sewerage system and any drains originating from equipment in which food, portable equipment, or utensils are placed. When a dishwashing machine is located within 5 feet of a trapped floor drain, the dishwasher waste outlet may be connected directly on the inlet side of a properly vented floor drain trap if permitted by law.

Reason: Improper plumbing installation or maintenance results in potential health hazards such as cross-connections, back siphonage, or leakage. These conditions may result in the contamination of food utensils and equipment, in the creation of obnoxious odors or nuisances, and may adversly affect the operation of equipment such as dishwashing machines, garbage grinders and other equipment which depend on sufficient volume and pressure to perform their intended functions.

Toilet Facilities

6–401 Toilet installation.

Toilet facilities shall be installed according to law, shall be the number required by law, shall be conveniently located, and shall be accessible to employees at all times.

6–402 Toilet design.

Toilets and urinals shall be designed to be easily cleanable.

6–403 Toilet rooms.

Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing, solid doors, which shall be closed except during cleaning or maintenance, except as provided by law.

6–404 Toilet fixtures.

Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptables shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

Reason: Adequate, sanitary toilet facilities are necessary for the proper disposal of human waste which carries pathogenic microorganisms and for the prevention of the spread of disease by flies, insects, clothing, hands, or other means.

Where toilet facilities are of a sanitary design and are kept clean and in good repair, employees are motivated towards proper attitudes regarding sanitary practices and conditions in the food service establishment.

Lavatory Facilities

6–501 Lavatory installation.

(a) Lavatories shall be at least the number required by law, shall be installed according to law, and shall be located to permit convenient use by all employees in food preparation areas and utensil-washing areas.

(b) Lavatories shall be accessible to employees at all times.

(c) Lavatories shall also be located in or immediately adjacent to toilet rooms or vestibules. Sinks used for food preparation or for washing equipment or

utensils shall not be used for handwashing.

6–502 Lavatory faucets.

Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet used shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Steam-mixing valves are prohibited.

6–503 Lavatory supplies.

A supply of hand-cleansing soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each lavatory. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.

6–504 Lavatory maintenance.

Lavatories, soap, dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair.

Reason: Hands are probably the most common vehicle for the transmission of contamination of food and food-contact surfaces. During normal operations, hands become soiled with a variety of contaminants and must be thoroughly washed at frequent intervals during the working day, after any interruption of the work routine, and after each visit to the toilet. To encourage the thorough washing of hands, lavatories must be accessible, conveniently located, clean and maintained in good repair, and must be supplied with warm water, soap or detergent, and towels.

Garbage and Refuse

6–601 Containers.

(a) Garbage and refuse shall be kept in durable, easily cleanable, insect-proof and rodent-proof containers that do not leak and do not absorb liquids. Plastic bags and wet-strength paper bags may be used to line these containers, and they may be used for storage inside the food service establishment.

(b) Containers used in food preparation and utensil washing areas shall be kept covered after they ar filled.

(c) Containers stored outside the establishment, and dumpsters, compactors and compactor systems shall be easily cleanable, shall be provided with tight-fitting lids, doors or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.

(d) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

(e) Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas. Suitable facilities, including hot water and detergent or steam, shall be provided and used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.

6–602 Storage.

(a) Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects and rodents. Outside storage of unprotected plastics bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wasters need not be stored in covered containers.

(b) Garbage and refuse on the premises shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect-proof and rodent-proof and shall be large enough to store the garbage and refuse containers that accumulate.

(c) Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters and compactor systems located outside shall be stored on or above a smooth surface of nonabsorbent material such as concrete or machine-laid asphalt that is kept clean and maintained in good repair.

6–603 Disposal.

(a) Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

(b) Where garbage or refuse is burned on the premises, it shall be done by controlled incineration that prevents the escape of particulate matter in accordance with law. Areas around incineration facilities shall be clean and orderly.

Reason: Proper storage and disposal of garbage and refuse is necessary to minimize the development of odors, to prevent such waste from becoming an attractant and harborage or breeding place for insects and rodents, and to prevent the soiling of food preparation and food service areas. Improperly handled garbage creates nuisance conditions, makes housekeeping difficult, and may be a possible source of contamination of food, equipment and utensils.

Storage areas for garbage and refuse containers must be constructed so that they can be thoroughly cleaned in order to avoid creating an attractant or harborage for insects or rodents. In addition, such storage areas must be large enough to accommodate all the containers necessitated by the operation in order to prevent a scattering of the garbage or refuse.

All containers must be maintained in good repair and cleaned as necessary in order to store garbage and refuse under sanitary conditions.

Insect and Rodent Control

6–701 General.

Effective measures intended to minimize the presence of rodents, flies, cockroaches, and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

6–702 Openings.

Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall not be less than 16 mesh to the inch.

Reason: Insects and rodents are capable of transmitting diseases to man by contamination of food and food-contact surfaces. Therefore, their presence in food service establishments must be kept to a minimum by measures designed to prevent their entrance.

Since insects and rodents require food, water, and shelter, control measures must be utilized to deprive them of these necessities.

Chapter Seven—Construction and Maintenance of Physical Facilities

Floors

7–101 Floor construction.

Floors and floor coverings of all food preparation, food storage, and utensil-washing areas, and the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth durable material such as sealed concrete, terrazzo, ceramic tile, durable

grades of linoleum or plastic, or tight wood impregnated with plastic, and shall be maintained in good repair. Nothing in this section shall prohibit the use of antislip floor covering in areas where necessary for safety reasons.

7–102 Floor carpeting.

Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food preparation, equipment-washing and utensil-washing areas where it would be exposed to large amounts of grease and water in food storage areas, and toilet room areas where urinals or toilet fixtures are located.

7–103 Prohibited floor covering.

The use of sawdust, wood shavings, peanut hulls, or similar material as a floor covering is prohibited.

7–104 Floor drains.

Properly installed, trapped floor drains shall be provided in floors that are water-flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Such floors shall be constructed only of sealed concrete, terrazzo, ceramic tile or similar materials, and shall be graded to drain.

7–105 Mats and duckboards.

Mats and duckboards shall be of nonabsorbent, grease resistant materials and of such size, design, and construction as to facilitate their being easily cleaned. Duckboards shall not be used as storage racks.

7–106 Floor junctures.

In all new or extensively remodeled establishments utilizing concrete, terrazzo, ceramic tile or similar flooring materials, and where water-flush cleaning methods are used, the junctures between walls and floors shall be coved and sealed. In all other cases, the juncture between walls and floors shall not present an open seam of more than 1/32 inch.

7–107 Utility line installation.

Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines and pipes on the floor is prohibited.

Reason: Floors that are properly constructed, smooth, maintained in good repair, and are nonabsorbent can be easily cleaned and will not create insanitary conditions. When floors are subjected to water flushing for cleaning or discharges of wastes from equipment, the wall and floor junctures should be coved and sealed to permit easy cleaning, and properly installed and trapped floor drains must be provided to carry away the liquid wastes to prevent potential hazards or nuisances.

Carpeting should be prohibited in specified areas because it cannot be properly cleaned on a daily basis, and presents an absorbent surface. Similarly, any floor covering, mat, or duckboard which is not grease-resistant and cleanable should be prohibited, to prevent soil buildup and the resulting potential hazards or nuisances.

Any installation of equipment or attendant service lines or pipes must be designed in a way that does not obstruct or prevent cleaning in order to avoid the accumulation of soil and debris.

Walls and Ceilings

7–201 Maintenance.

Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair.

7–202 Construction.

The walls, including nonsupporting partitions, wall coverings, and ceilings of walk-in refrigerating units, food preparation areas, equipment-washing and utensil-washing areas, toilet rooms and vestibules shall be light colored, smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations shall be finished and sealed to provide an easily cleanable surface.

7–203 Exposed construction.

Studs, joists, and rafters shall not be exposed in walk-in refrigerating units, food preparation areas, equipment-washing and utensil-washing areas, toilet rooms and vestibules. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.

7–204 Utility line installation.

Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in walk-in refrigerating units, food preparation areas, equipment-washing and utensil-washing areas, toilet rooms and vestibules.

7–205 Attachments.

Light fixtures, vent covers, wall-mounted fans, decorative materials, and similar equipment attached to walls and ceilings shall be easily cleanable and shall be maintained in good repair.

7–206 Covering material installation.

Wall and ceiling covering materials shall be attached and sealed so as to be easily cleanable.

Reason: Walls and ceilings that are properly constructed, smooth, maintained in good repair and are nonabsorbent can be easily cleaned and will not create insanitary conditions.

Walls and ceilings in food preparation, utensil- and equipment-washing and toilet areas must be light colored to aid in the distribution of light to facilitate thorough cleaning, sanitary food preparation, and the observance of general sanitary procedures.

Any installation of equipment, attachments, and service lines or pipes must be designed in a way that does not obstruct or prevent cleaning, to avoid the accumulation of soil and debris. Wall and ceiling covering or decorative materials, as well as attached equipment, must be easily cleanable, maintained in good repair, and installed in a manner that permits easy cleaning to avoid the creation of potential contamination hazards.

Cleaning Physical Facilities

7–301 General.

Cleaning of floors and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as after closing or between meals. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of dust-arresting sweeping compounds with brooms.

7–302 Utility facility.

In new or extensively remodeled establishments at least one utility sink or curbed cleaning facility with a floor drain shall be provided and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mopwater or similar liquid wastes. The use of lavatories, utensil-washing or equipment-washing, or food preparation sinks for this purpose is prohibited.

Reason: The food service establishment must be kept clean to minimize attractants for insects and rodents, to prevent nuisance conditions,

and to aid in preventing the contamination of food and equipment. A clean and orderly establishment is conducive to good sanitary practices in food preparation and service, in equipment and utensil washing, and in the storage and handling of equipment, utensils and food.

Facilities must be cleaned with the proper equipment to preclude the contamination of food and equipment. Improper cleaning methods or improper application of cleaning procedures such as sweeping or pressure spraying may raise dust, scatter debris or create contaminating aerosols.

Lighting

7–401 General.

(a) Permanently fixed artificial light sources shall be installed to provide at least 20 foot candles of light on all food preparation surfaces and at equipment or utensil-washing work levels.

(b) Permanently fixed artificial light sources shall be installed to provide, at a distance of 30 inches from the floor:

(1) At least 20 foot candles of light in utensils and equipment storage areas and in lavatory and toilet areas; and

(2) At least 10 foot candles of light in walk-in refrigerating units, dry food storage areas, and in all other areas. This shall also include dining areas during cleaning operations.

7–402 Protective shielding.

(a) shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, by, or within food storage, preparation, service, and display facilities, and facilities where utensils and equipment are cleaned and stored.

(b) Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

Reason: Ample light, properly distributed, makes dirt conspicuous, is necessary for the proper preparation and handling of food, and is imperative for the complete cleaning and sanitization of equipment and utensils. Adequate lighting is also essential in all areas of the establishment for general cleaning, for reading and identifying labels and colors, and for recognizing the condition of the food stored in the establishment. Inadequate lighting may result in a general lack of cleanliness, accidental mixing of toxic substances with food, or serving unsafe or spoiled food to the consumer. Shielded light fixtures are necessary to protect food, utensils, and equipment from glass fragments should the fixture break. The shielding also prevents many instances of breakage, and provides a greater degree of on-the-job safety to employees.

Ventilation

7–501 General.

All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems shall be installed and operated according to law and, when vented to the outside, shall not create an unsightly, harmful or unlawful discharge.

7–502 Special ventilation.

(a) Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.

(b) In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors or fumes originate shall be mechanically vented to the outside.

Reason: Sufficient ventilation reduces condensation that may drop into food or onto utensils or food preparation surfaces, and thus inhibits mold and bacterial growth. Sufficient ventilation of all areas of the establishment also minimizes the soiling of walls, ceilings, and floors; reduces temperatures; exhausts objectionable odors; and precludes the concentration of toxic gases. It facilitates removing air contaminated during cleaning or food preparation processes, or as the result of exhaust from other equipment.

Dressing Rooms and Locker Areas

7–601 Dressing rooms and areas.

If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, storage or service, or for utensil washing or storage.

7–602 Locker areas.

Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may be located only in the designated dressing rooms or in food storage rooms or areas containing only completely packaged food or packaged single-service articles.

Reason: Street clothing and personal belongings can contaminate food, food equipment, and food preparation surfaces. Therefore, it is desirable to have employees routinely change clothing within the establishment. When this is the routine, rooms for areas must be designated for this purpose. Regardless of whether or not clothing is changed within the establishment, lockers or other suitable facilities must be provided for the proper storage of personal belongings such as purses, coats, shoes, and personal medications.

Poisonous or Toxic Materials

7–701 Materials permitted.

There shall be present in food service establishments only those poisonous or toxic materials necessary for maintaining the establishment, cleaning and sanitizing equipment and utensils, and controlling insects and rodents.

7–702 Labeling of materials.

Containers of poisonous or toxic materials shall be prominently and distinctly labeled according to law for easy identification of contents.

7–703 Storage of materials.

(a) Poisonous or toxic materials consist of the following categories:

(1) Insecticides and rodenticides;

(2) Detergents, sanitizers, and related cleaning or drying agents;

(3) Caustics, acids, polishes, and other chemicals.

(b) Each of the three categories set forth in paragraph (a) of this section shall be stored and physically located separate from each other. All poisonous or toxic materials shall be stored in cabinets or in a similar physically separate place used for no other purpose. To preclude contamination, poisonous or toxic materials shall not be stored above food, food equipment, utensils or single-service articles, except that this requirement does not prohibit the convenient availability of detergents or sanitizers at utensil or dishwashing stations.

7–704 Use of materials.

(a) Bactericides, cleaning compounds or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces or that constitutes a hazard to employees or other persons.

(b) Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way that constitutes a hazard to employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.

7–705 Personal medications.

Personal medications shall not be stored in food storage, preparation or service areas.

7–706 First-aid supplies.

First-aid supplies shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

Reason: In order to reduce the potential for contamination, stored poisonous and toxic materials should be limited to those necessary to maintain the establishment. Proper labeling, use, storage, and handling of poisonous and toxic materials are essential to prevent the accidental contamination of food, equipment, and utensils, and to ensure the safety of food service personnel and the consumer.

Premises

7–801 General.

(a) Food service establishments and all parts of property used in connection with their operations shall be kept free of litter.

(b) The walking and driving surfaces of all exterior areas of food service establishments shall be surfaced with concrete or asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to prevent pooling and shall be kept free of litter.

(c) Only articles necessary for the operation and maintenance of the food service establishment shall be stored on the premises.

(d) The traffic of unnecessary persons through the food preparation and utensil-washing areas is prohibited.

7–802 Living areas.

No operation of a food service establishment shall be conducted in any room used as living or sleeping quarters. Food service operations shall be separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.

7–803 Laundry facilities.

(a) Laundry facilities in a food service establishment shall be restricted to the washing and drying of linens, cloths, uniforms and aprons necessary to the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used.

(b) Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

7–804 Linens and clothes storage.

(a) Clean clothes and linens shall be stored in a clean place and protected from contamination until used.

(b) Soiled clothes and linens shall be stored in nonabsorbent containers or washable laundry bags until removed for laundering.

7–805 Cleaning equipment storage.

Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner for the cleaning of that storage location.

7–806 Animals.

Live animals, including birds and turtles, shall be excluded from within the food service operational premises and from adjacent areas under the control of the permit holder. This exclusion does not apply to edible fish, crustacea, shellfish, or to fish in aquariums. Patrol dogs accompanying security or police officers, or guide dogs accompanying blind persons, shall be permitted in dining areas.

Reason: For the general cleanliness of the establishment, and to preclude situations that could lead to food contamination, general preventive measures must be implemented throughout the establishment and all outside areas under the control of the operator.

Outside walking and driving surfaces and all other exterior areas must be free of litter and properly surfaced and graded to prevent creating harborage or attractive nuisances, and to minimize dust or pooling of water.

Areas or facilities that are noncompatible with sanitary food service operations, such as living quarters, laundry operations, and cleaning equipment storage facilities, must be located and/or separated from other areas of the establishment to preclude potential contamination of food and food-contact surfaces by aerosols, toxic or poisonous substances, dust or debris, or by the presence of uncleanable surfaces and materials.

The traffic of unnecessary persons and the presence of animals must be prohibited for similar reasons and because of the possibility of disease transmission through direct or indirect contact with food or food-contact surfaces.

Chapter Eight—Mobile Food Units or Pushcarts

Mobile Food Service

8–101 General.

Mobile food units or pushcarts shall comply with the requirements of this chapter, except as otherwise provided in this paragraph and in section 8–102 of this ordinance. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the food service establishment as a mobile operation, may prohibit the sale of some or all potentially hazardous food, and when no health hazard results may waive or modify requirements of this chapter relating to physical facilities, except those requirements of sections 8–104, 8–105, 8–201, 8–301, and 8–302 of this ordinance.

8–102 Restricted operation.

Mobile food units or pushcarts serving only food prepared, packaged in individual servings, transported and stored under conditions meeting the requirements of this ordinance, or beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment, need not comply with requirements of this ordinance pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and if sanitization exists at the commissary. However, frankfurters may be prepared and served from these units or pushcarts.

8–103 Single-service articles.

Mobile food units or pushcarts shall provide only single-service articles for use by the consumer.

8–104 Water system.

A mobile food unit requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and handwashing, in accordance with the requirements of this ordinance.

The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be kept capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of this ordinance.

8–105 Waste retention.

If liquid waste results from operation of a mobile food unit, the waste shall be stored in a permanently installed retention tank that is of at least 15

percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food unit. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.

Reason: In addition to hazards created by the transport and service of food from a mobile food unit or pushcart, food served from such units or pushcarts is subject to the same potential contamination as that served in other food service establishments. This means that a mobile food unit or pushcart must be regulated in the same manner, and provide to the consumer the same degree of food protection offered by any food service establishment. However, there are restricted-operation mobile food units or pushcarts that are not equipped with all the facilities required by the ordinances for food service operations. These operations must be limited to the service of those foods for which they can provide sufficient protection according to the requirements of this ordinance.

Commissary

8–201 Base of operations.

(a) Mobile food units or pushcarts shall operate from a commissary or other fixed food service establishment and shall report at least daily to such location for all supplies and for all cleaning and servicing operations.

(b) The commissary or other fixed food service establishment used as a base of operation for mobile food units or pushcarts shall be constructed and operated in compliance with the requirements of this ordinance.

Reason: All mobile food unit or pushcart servicing, cleaning, and food supply operations must be conducted at a location meeting the requirements of this ordinance to ensure that the source of food and any incidental operation are not hazardous to the consumer.

Servicing Area and Operations

8–301 Servicing area.

(a) A mobile food unit servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies. This servicing area will not be required where only packaged food is placed on the mobile food unit or pushcart or where mobile food units do not contain waste retention tanks.

(b) The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.

(c) The construction of the walls and ceilings of the servicing area is exempted from the provisions of sections 7–201 through 7–206 of this ordinance.

8–302 Servicing operations.

(a) Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.

(b) The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewerage disposal system in accordance with section 6–201 of this ordinance.

Reason: To prevent contamination of the food supplied to a mobile food service unit or pushcart and to permit the sanitary servicing and disposal of waste from such units, a servicing area must be provided and constructed according to the requirements of this ordinance. For the same reasons, the operational procedures and equipment used in servicing mobile food service units or pushcarts must conform to good sanitary practices to prevent contamination of the food offered to the consumer.

Chapter Nine—Temporary Food Service

Temporary Food Service Establishments

9–101 General.

A temporary food service establishment shall comply with the requirements of this ordinance, except as otherwise provided in this chapter. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the temporary food service establishment, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of this ordinance.

9–102 Restricted operations.

(a) These provisions are applicable whenever a temporary food service establishment is permitted, under the provisions of section 9–101 of this ordinance, to operate without complying with all the requirements of this chapter.

(b) Only those potentially hazardous foods requiring limited preparation, such as hamburgers and frankfurters that only require seasoning and cooking, shall be prepared or served. The preparation or service of other potentially hazardous foods, including pastries filled with cream or synthetic cream, custards, and similar products, and salads or sandwiches containing meat, poultry, eggs or fish is prohibited. This prohibition does not apply to any potentially hazardous food that has been prepared and packaged under conditions meeting the requirements of this ordinance, is obtained in individual servings, is stored at a temperature of 45 °F or below or at a temperature of 140 °F or above in facilities meeting the requirement of this ordinance, and is served directly in the unopened container in which it was packaged.

9–103 Ice.

Ice that is consumed or that contacts food shall be made under conditions meeting the requirements of this ordinance. The ice shall be obtained only in chipped, crushed, or cubed form and in single-use plastic or wet-strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until it is dispensed in a way that protects it from contamination.

9–104 Equipment.

(a) Equipment shall be located and installed in a way that prevents food contamination and that also facilitates cleaning the establishment.

(b) Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Effective shields for such equipment shall be provided, as necessary, to prevent contamination.

9–105 Single-service articles.

All temporary food service establishments without effective facilities for cleaning and sanitizing tableware shall provide only single-service articles for use by the consumer.

9–106 Water.

Enough potable water shall be available in the establishment for food preparation, for cleaning and sanitizing utensils and equipment, and for handwashing. A heating facility capable of producing enough hot water for these purposes shall be provided on the premises.

9–107 Wet storage.

Storage of packaged food in contact with water or undrained ice is prohibited. Wrapped sandwiches shall not be stored in direct contact with ice.

9–108 Waste.

All sewage, including liquid waste, shall be disposed of according to law.

9–109 Handwashing.

A convenient handwashing facility shall be available for employee handwashing. This facility shall consist of, at least, warm running water, soap, and individual paper towels.

9–110 Floors.

Floors shall be constructed of concrete, asphalt, tight wood, or other similar cleanable material kept in good repair. Dirt or gravel, when graded to drain, may be used as subflooring when covered with lean, removable platforms or duckboards, or covered with wood chips, shavings or other suitable materials effectively treated to control dust.

9–111 Walls and ceilings of food preparation areas.

(a) Ceilings shall be made of wood, canvas, or other material that protects the interior of the establishment from the weather. Walls and ceilings of food preparation areas shall be constructed in a way that prevents the entrance of insects. Doors to food preparation areas shall be solid or screened and shall be self-closing. Screening material used for walls, doors, or windows shall be at least 16 mesh to the inch.

(b) Counter-service openings shall not be larger than necessary for the particular operation conducted. These openings shall be provided with tight-fitting solid or screened doors or windows or shall be provided with fans installed and operated to restrict the entrance of flying insects. Counter-service openings shall be kept closed, except when in actual use.

Reason: Food served from temporary food service establishments is subject to the same potential for contamination as that served in fixed food service establishments as well as the additional potential for contamination resulting from specific conditions associated with temporary establishments. While recognizing the limited capability of most temporary operations, it is necessary for the protection of the public health to regulate closely the construction and operational methods of such establishments. Due to this limited food protection capability, most temporary food service establishments must be restricted to the service of prepackaged and preprepared foods, or allowed only limited food preparation functions. The degree of such restrictions must be in direct relation to the capacity for food protection demonstrated by the construction of a temporary establishment and its equipment.

Appendix B—Before the Food Safety and Inspection Service, United States Department of Agriculture

Petition to Initiate Rulemaking to Establish Terms and Conditions for Exempting Meat-Topped Pizzas Served in Public and Private Nonprofit Institutions From the Requirements of the Federal Meat Inspection Act

Covington & Burling, 1201 Pennsylvania Avenue NW., Washington, DC 20044, (202) 662–5000.

March 19, 1992.

Citizens Petition

This petition is submitted on behalf of Pizza Hut, Inc., 9111 East Douglas, Wichita, Kansas, under sections 21, 23, and 24 of the Federal Meat Inspection Act (FMIA), as amended by section 1016 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (FACT), Public Law 102–237, 105 Stat. 1818, 1902–04 (December 13, 1991); section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(e); and § 1.28 of title 7 of the Code of Federal Regulations. The undersigned request that the Administrator of the Food Safety and Inspection Service (FSIS) publish a proposed regulation under 9 CFR part 303 to establish terms and conditions exempting pizzas with pre-cooked meat toppings served in public and private nonprofit institutions from the requirements of the FMIA.

A. Action Requested

This petition requests the Administrator to publish the following proposed regulation:

§ 303.3—Terms and conditions for exempting pizzas with pre-cooked meat toppings served in public and private nonprofit institutions from inspection requirements. Fresh pizzas containing pre-cooked meat food products are exempt from the inspection requirements of the Act under the following conditions:

(a) The meat food product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with applicable requirements of the Federal Meat Inspection Act or Poultry Products Inspection Act and regulations issued thereunder;

(b) The meat food product components have been refrigerated or otherwise appropriately stored prior to use in the pizzas;

(c) The facility preparing the pizzas maintains daily records identifying the institutions to which pizzas are sold;

(d) The pizzas are delivered and cooked on the day of sale, in accordance with all applicable state and local food establishment requirements;

(e) The pizzas are served only in those public or private nonprofit institutions which—

(1) Operate under the supervision of personnel designated by the governing school authority, and

(2) Abide by all applicable state and local food establishment requirements governing the cleanliness of facilities and equipment as well as assuring safe food handling and storage;

(f) The pizzas are served in such a way that they are consumed no later than two hours after their temperature first falls below 140 °F. Pizzas may be heated or insulated during transit and storage prior to serving, but reheating will not affect the requirement that the pizzas be served for consumption within two hours after their temperature first falls below 140 °F.

B. Statement of Grounds

1. Legislative Background

A recently enacted amendment to the Federal Meat Inspection Act creates an exemption for pizzas made with pre-cooked USDA inspected meat products and sold directly to public and private schools. Congress passed the Food, Agriculture, Conservation and Trade Act Amendments of 1991 (FACT) on November 26, 1991. Public Law 102–237, 105 Stat. 1818, was signed by the President on December 13, 1991. Section 1016(a) of the Act adds the following language to section 23 of FMIA (21 U.S.C. 623):

(c)(1) Under such terms and conditions as the Secretary shall prescribe through rules and regulations issued under section 24 that may be necessary to ensure food safety and protect public health such as special handling procedures, the Secretary shall exempt pizzas containing a meat food product from the inspection requirements of this Act if—

(A) The meat food product components of the pizzas have been prepared, inspected, and passed in a cured or cooked from as ready-to-eat in compliance with the requirements of this Act; and

(B) The pizzas are to be served in public or private nonprofit institutions.

A nearly identical amendment was made to the Poultry Products Inspection Act.

Both amendments require implementing regulations as specified in section 1016(c) of the new Act:

No later than August 1, 1992, the Secretary of Agriculture shall issue final rules, through prior notice and comment rulemaking procedures, to implement the exemption[s] authorized [above] * * * * Prior to the issuance of the final rules, the Secretary shall hold at least one public hearing examining the public health and food safety issues

raised by the granting of each of the exemptions.

During the debate in the House, a few representatives mentioned specific sanitation requirements that they expected these regulations to address, *e.g.*:

> Sanitary specifications for facilities, equipment, and storage rules, as well as acceptable processing methods must be adopted to fully eliminate the risks preparing meat food products.

137 Cong. Rec. H11336, H11366 (daily ed. November 26, 1991). These sanitation requirements can and should be addressed in promulgating a regulation, and are fully covered in the regulation requested by this petition.

2. Appropriate Models for Regulation

FSIS already has promulgated regulations establishing exemptions for other appropriate situations where meat-containing foods are prepared and served. It has been suggested that the exemption for custom slaughter might provide an appropriate paradigm for the new regulation (137 Cong. Rec. at H11365, 9 CFR 303.1(a)(2)(i)), but it is clear that the conditions presented in that situation relate to problems that are very different from those which are presented by pizzas with pre-cooked meat toppings served in schools. By contrast, the existing exemption for restaurant central kitchen facilities provides an ideal model for the meat-topped pizza exemption. Central kitchens are exempt from routine inspection:

> If the restaurant central kitchen prepares meat or meat food products that are ready to eat when they leave such facility (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation), transported directly to a receiving restaurant by its own employees, without intervening transfer or storage, maintained in a safe, unadulterated condition during transportation, and served in meals or as entrees only to customers at restaurants * * *

9 CFR 303.1(d)(2)(iv)(c). The restaurant central kitchen exemption requires that specified records be maintained and that exempted facilities take appropriate steps to assure safe and sanitary practices and procedures. The regulation requested in this petition for meat-topped pizzas incorporates similar principles and requirements.

3. Existing State and Local Health Codes Provide Ample Safety Assurances

In promulgating terms and conditions under which pizzas with pre-cooked meat toppings are exempt from meat inspection requirements, the agency should take into consideration the degree to which the comments expressed by certain members of Congress are already addressed by State and local health and sanitation codes, including school board rules. Currently, restaurants and institutional cafeterias preparing and selling meat and non-meat food products are subject to careful regulation and inspection by State and local health authorities.

The transportation of meat food products to an educational institution does not raise unique safety concerns. Many large school systems currently have food prepared at a large central kitchen and transported to the institutional cafeteria for reheating or "hot-holding" until served. As FSIS explained in its preamble to the final regulation establishing the restaurant central kitchen exemption, this practice is not subject to Federal regulation. 51 FR 29905, 29908 (August 21, 1988). State and local health authorities has regulations and enforcement mechanisms which adequately address any food safety issues associated with the transportation of pizzas made with pre-cooked meat toppings. In its draft Food Protection Unicode, a model code which reflects many of the controls already in place at the State and local level, FDA has included time and temperature control guidelines.

> During holding for service, time rather than temperature may be used as a public health control, if the following conditions are met:
>
> Elapsed time which [sic] potentially hazardous foods are between 130 °F (54.4 °C) and 40 °F (4.4 °C) shall not exceed four (4) hours;
>
> The food containers or packages, at the time the food is removed from temperature control, shall be marked or otherwise positively identified with the time that the food shall be served or discarded; and
>
> Food in unmarked containers or for which the time has expired shall be discarded.

Unicode §§ 2-501.52-.54 (Revised March 10, 1988).

Pizza Hut has sold non-meat pizzas to schools participating in the National School Lunch Program (NSLP) for the last three years, and it has sold its full line of meat-topped pizzas to schools not participating in NSLP through sales agency agreements approved by FSIS. In excess of four million large and personal size pizzas were sold to schools and other institutions over the last year alone, without any reported incident of food-borne illness associated with the product. The company's practice, reflected in the documents provided to participating schools, requires that pizzas be hot held immediately upon arrival at the school. It is not uncommon for Pizza Hut to make two or three deliveries of fresh product during a school's lunch period to assure product freshness.

To the extent that FSIS feels the need to mandate specific time and temperature ranges in the terms and conditions for pizzas made with pre-cooked meat toppings, the regulation proposed in this petition contains reasonable parameters that are consistent with the draft Unicode and thus fully protect the public health. In the preamble to its restaurant central kitchens exemption, however, FSIS expressly declined to mandate minimum and maximum temperatures during transport. 51 FR at 29908 ("FSIS does not see a need to regulate a refrigeration temperature.").

In its preamble to the regulation exempting restaurant central kitchens, FSIS rejected comments generally opposed to the exemption by noting the adequacy of local requirements:

> All retail restaurant central kitchens are subject to periodic inspection by local governments and to local licensing requirements to ensure proper sanitation and food handling. Thus, although certain restaurant central kitchens are exempt from Federal inspection requirements, they are still subject to local controls.

51 FR at 29907. Later in the preamble, FSIS reiterated this point, explaining that monitoring compliance with the terms and conditions of the exemption could be achieved with the assistance of State and local officials who inspect food handling establishments in their respective jurisdictions. 51 FR at 29909.

C. Conclusion

For all of these reasons, we urge FSIS to propose the regulation set out above, incorporating and relying on existing State and local food sanitation rquirements as well as the FDA requirements that always apply. Additional Federal regulation of food safety issues already comprehensively addressed by State and local authorities would create undue and perhaps inconsistent burdens for parties wishing to participate in a program to supply fresh pizzas to schools. Such burdens cannot be justified by an added increment of public safety.

Respectfully submitted,

Peter Barton Hutt,

Clausen Ely, Jr.,

Lars Noah,

Covington & Burling,

Counsel for Pizza Hut, Inc.

Appendix C

H. Russell Cross, Ph.D.,

Administrator, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 331–E, Administration Building, 12th & Jefferson Drive SW., Washington, DC 20250.

Re: Petition To Institute Rulemaking
March 16, 1992.

Dear Mr. Cross: On behalf of the undersigned organizations, we respectfully request the Food Safety and Inspection Service (FSIS) institute a rulemaking proceeding to adopt the regulations discussed below to implement section 1016(a)–(c) of Public Law 102–237.

Background

On December 13, 1991, Public Law 102–237 was enacted. Included in the Act is Section 1016, "Exemption and Study of Certain Food Products", which amends Section 23 of the Federal Meat Inspection Act (FMIA) and section 15 of the Poultry Products Inspection Act (PPIA) (the Inspection Acts) to provide for the Secretary of Agriculture to exempt the processing of pizza from daily continuous inspection in certain well-defined instances.

Under the provision, pizza processing may be exempt from the daily inspection requirements of the Inspection Acts only if: (1) The operation uses previously inspected and passed meat/poultry in a cooked or cured form; (2) the pizza produced without inspection is served only to consumers at public or private nonprofit institutions; and (3) the processing establishment complies with terms and conditions, imposed by regulation, to ensure food safety and protect public health absent the presence of an inspector. The exempt processing and the products thereof remain within FSIS jurisdiction. Indeed the requirements of the Inspection Acts, other than daily inspection, apply. Further, the provision authorizes the Secretary to withdraw the exemption when necessary to protect public health and safety. Finally, the Secretary is to issue the final regulation to implement Section 1016 by August 1, 1992.

Action Requested

We respectfully request FSIS adopt the following regulation to implement Section 1016 of Public Law 102–237:

9 CFR 303.1

(e) (1) The requirements of the Act and the regulations in this subchapter for inspection of the preparation of pizza with meat or pizza with sausage do not apply to a facility processing such products if: (i) The meat food product components of the pizzas have been prepared, inspected, and passed in a ready-to-eat cooked or cured form in compliance with the requirements of the Act; (ii) the preparation is exclusively for service at eligible institutions; and (iii) the facility has obtained a specific determination from the Administrator that an inspector at the facility is not necessary to ensure food safety and public health.

(2) For purposes of paragraph (e)(1) of this section, an eligible institution is a nonprofit private or public institution which has on staff a registered dietician or a staff trained in proper food handling techniques, such as required in 42 CFR 483.35(a) and (b). The institution shall provide documentation to the exempted facility to verify compliance with this requirement.

(3) Before conducting operations without an inspector, the facility shall make application to the Administrator for the Determination required in a paragraph (e)(1)(iii) and include all necessary information to assure compliance with the requirements of this section.

(4) Upon receipt of the application, the Administrator will review the application and shall conduct onsite visits to ensure the requirements of this section are met by the applicant. At a minimum, the following requirements must be met by an applicant for exemption:

(i) The facility in which the pizza processing is conducted is maintained and operated in accordance with the provisions of §§ 308.4, 308.5, 308.7, 308.8 (a) and (d), 308.9, 308.13, 308.14, and 308.3 (except §§ 308.3 (d)(2)–(4) and (f)) of this subchapter; Provided, That the provisions of 308.3 relating to inspection or supervision of specified activities or other action by a Program employee shall not apply to the preparation and handling of such exempted products: Provided further, that the requirement of § 308.4 for dressing rooms shall not be imposed;

(ii) The exempted products shall be prepared, packaged and handled in accordance with the provisions of §§ 317.24; 318.6 (a) and (b)(12), 318.7, 318.14 (a) and (b) of this subchapter and shall not be adulterated as defined in paragraph 1(m) of the Act; Provided, that the provisions of § 318.6 relating to inspection or supervision of specified activities or other action by a Program inspector shall not apply to the preparation and handling of such exempted products;

(iii) The exempted products shall bear all the required labeling features specified in part 317 (other than the requirement of inspection legend); shall bear the statement: "Not produced under USDA inspection; For sale and use at supervised public and private nonprofit institutions only;" and shall meet the standard of identity for meat-topped pizza found at § 319.600;

(iv) The requirements of § 320.1 through 320.4 of this subchapter apply to such facility;

(v) The facility has an on-going sanitary training program for its employees, and can document such training; and

(vi) Any other requirements the Administrator deems necessary in particular cases to effectuate the purposes of the act.

(5) If the Administrator ascertains the requirements of this section are met, an appropriate determination will be issued to the applicant. If, at the time of application or subsequently on the basis of new information, the Administrator ascertains that the purposes of the Act are not being met in one or more exempt facilities, such exemption(s) shall be denied or rescinded upon the operator's receipt of written notice from the Administrator. In such a case, the operator of the facility shall be afforded an opportunity to present views to the Administrator within 30 days of the date of the letter withdrawing the exemption. In those instances, where there is a conflict of facts, a hearing, under the applicable Rules of Practice, will be provided to the operator to resolve the conflict. The Administrator's termination of the inspection exemption shall remain in effect pending the final determination of the proceeding. The above does not restrict the Administrator's authority to withdraw the exemption at all facilities *en masse*, provided a rulemaking to reevaluate the terms and conditions for the exemption is initiated.

(6) Handling and transportation—products produced under this section shall be transported to eligible institutions in a manner which shall assure the products do not become adulterated or misbranded.

(i) The products must be wrapped, packaged, or otherwise enclosed to prevent adulteration by airborne contaminants.

(ii) Means of conveyance shall be free of foreign matter (such as dust, dirt, rust, or other articles or residues) and otherwise in a clean and sanitary condition.

(iii) Handling requirements for pizza to be distributed in a frozen state—the product's internal temperature after cooking shall not remain between 130 °F and 80 °F for more than 1.5 hours nor remain between 80 °F and 40 °F for more than 5 hours—after which the product will immediately be maintained in a frozen state.

(iv) Handling requirements for pizza to be distributed in a refrigerated state—the product's internal temperature after cooking shall not remain between 130 °F and 80 °F for more than 1.5 hours, nor remain between 80 °F and 40 °F for more than 5 hours—after which the product will immediately and consistently be maintained below 40 °F for not more than 7 days, after which the product must be reheated or be discarded.

(v) Handling requirements for pizza to be distributed in a ready-to-eat state, the exempt operation must verify through its records that:

(A) The product will be consumed within 2 hours;

(B) The product will be consumed within 4 hours, but only if it is established that the product's internal temperature has been maintained above 140 °F; Provided, that internal temperatures below 140 °F for less than 30 minutes total between cooking and consumption shall be permitted; or

(C) If the product's handling does not meet (A) or (B) above, the product must be discarded unless it is reheated within a period to be verified of not more than 1.5 hours after its internal temperature drops below 140 °F or the product is cooled and refrigerated in full compliance with (iv) above.

(7) The exempt facility shall file reports as required by the Administrator as specified in §§ 320.6(b) and (c) to assure full compliance of the exempt operation with requirements promulgated under the Act.

(8) The exempt facility shall certify on at least an annual basis that it is complying with the requirements in paragraph (e)(1), including sales only to eligible institutions which meet the requirements of paragraph (e)(2).

9 CFR 381.10

(e)(1) The requirements of the Act and the regulations in this part for inspection of the preparation of pizza with poultry do not apply to a facility processing such products if: (i) The poultry food product components of the pizzas have been prepared, inspected, and passed in a ready-to-eat cooked or cured form in compliance with the requirements of the Act; (ii) the preparation is exclusively for service at eligible institutions; and (iii) the facility has obtained a specific determination from the Administrator that an inspector at the facility is not necessary to ensure food safety and public health.

(2) For purposes of paragraph (e)(1) of this section, an eligible institution is a nonprofit private or public or public institution which has on staff a registered dietician or a staff trained in proper food handling techniques, such as required in 42 CFR 483.35 (a) and (b). The institution shall provide documentation to the exempted facility to verify compliance with this requirement.

(3) Before conducting operations without an inspector, the facility shall make application to the Administrator for the Determination required in paragraph (e)(1)(iii) and include all necessary information to assure compliance with the requirements of this section.

(4) Upon receipt of the application, the Administrator will review the application and shall conduct onsite visits to ensure the requirements of this section are met by the applicant. At a minimum, the following requirements must be met by any applicant for exemption:

(i) The facility in which the pizza processing is conducted is maintained and operated in accordance with the provisions of §§ 381.47(a), 381.48, 381.49, 381.50(a)–(b) and (e), 381.51, 381.52, 381.53(a)(1)–(4), (b), (c), (g)(2)–(3), (i), 381.54(a), 381.56(b), 381.57, 381.58(a), (b), 381.59, 381.60 and 381.61; Provided, That the provisions of said sections relating to inspection or supervision of specified activities or other action by a Program employee shall not apply to the preparation and handling of such exempted products: Provided further, that the requirements of § 381.51 shall not be interpreted to require dressing rooms;

(ii) The exempted products shall be prepared, packaged, and handled in accordance with the provisions of §§ 381.144, 381.147, 381.148 and 381.51 (a) and (b) of this subchapter and shall not be adulterated as defined in paragraph 1(m) of the Act; Provided, That the provisions of the above sections relating to inspection or supervision of specified activities or other action by a Program inspector shall not apply to the preparation and handling of such exempted products;

(iii) The exempted products shall bear all the required labeling features specified in part 381, subpart N (other than the requirement of inspection legend); shall bear the statement: "Not produced under USDA inspection; For sale and use at supervised public and private nonprofit institutions only;" and shall contain at least the same amount of poultry meat as is required of inspected products;

(iv) The requirements of 381.175–381.179 of this subchapter apply to such facility;

(v) The facility has an on-going sanitary training program for its employees and can document such training; and

(vi) Any other requirements the Administrator deems necessary in particular cases to effectuate the purposes of the act.

(5) If the Administrator ascertains the requirements of this section are met, an appropriate determination will be issued to the applicant. If, at the time of application or subsequently on the basis of new information, the Administrator ascertains that the purposes of the Act are not being met in one or more exempt facilities, such exemption(s) shall be denied or rescinded upon the operator's receipt of written notice from the Administrator. In such a case, the operator of the facility shall be afforded an opportunity to present views to the Administrator within 30 days of the date of the letter withdrawing the exemption. In those instances, where there is a conflict of facts, a hearing, under the applicable Rules of Practice, will be provided to the operator to resolve the conflict. The Administrator's termination of the inspection exemption shall remain in effect pending the final determination of the proceeding. The above does not restrict the Administrator's authority to withdraw the exemption at all facilities *en masse*, provided a rulemaking to reevaluate the terms and conditions for the exemption is initiated.

(6) Handling and transportation—products produced under this section shall be transported to eligible institutions in a manner which shall assure the products do not become adulterated or misbranded.

(i) The products must be wrapped, packaged, or otherwise enclosed to prevent adulteration by airborne contaminants.

(ii) Means of conveyance shall be free of foreign matter (such as dust, dirt, rust, or other articles or residues) and otherwise in a clean and sanitary condition.

(iii) Handling requirements for pizza to be distributed in a frozen state—the product's internal temperature after cooking shall not remain between 130 °F and 80 °F for more than 1.5 hours nor remain between 80 °F and 40 °F for more than 5 hours—after which the product will immediately be maintained in a frozen state.

(iv) Handling requirements for pizza to be distributed in a refrigerated state—the product's internal temperature after cooking shall not remain between 130 °F and 80 °F for more than 1.5 hours, nor remain between 80°F and 40°F for more than 5 hours—after which the product will immediately and consistently be maintained below 40 °F for not more than 7 days, after which the product must be reheated or be discarded.

(v) Handling requirements for pizza to be distributed in a ready-to-eat state, the exempt operation must verify through its records that:

(A) The product will be consumed within 2 hours;

(B) The product will be consumed within 4 hours, but only if it is established that the product's internal temperature has been maintained above 140 °F, provided however, internal temperatures below 140 °F for less than 30 minutes total between cooking and consumption shall be permitted; or

(C) If the product's handling does not meet (A) or (B) above, the product must be discarded unless it is reheated within a period to be verified of not more than 1.5 hours after its internal temperature drops below 140°F or the product is cooled and refrigerated in full compliance with (iv) above.

(7) The exempt facility shall file reports as required by the Administrator to assure full compliance of the exempt operation with requirements promulgated under the Act.

(8) The exempt facility shall certify on at least an annual basis that it is complying with the requirements in paragraph (e)(1), including sales only to eligible institutions which meet the requirements of paragraph (e)(2).

(9) The adulteration and misbranding provision of the Act and the regulations other than the requirement of the official inspection legend, apply to articles which are exempted from inspection under this paragraph (e).

In addition, we respectfully request FSIS coordinate with the Food and Nutrition Service to inform the numerous public and private nonprofit institutions with which the Department of Agriculture has contact (schools participating in the National School Lunch Program, institutions participating in other child nutrition programs, and charitable institutions that receive commondity distributions) of the requirements of final regulations to implement section 1016 of Public Law 102–237. This matter has been the subject of some public confusion. Such communication to nonprofit institutions could avoid further confustion once a final rule is promulgated.

Statement of Grounds

I. Section 1016 imposes a duty to affirmatively guarantee an exempted operation complies, at a minimum, with those sanitation, processing, and handling requirements applicable to inspected establishments. Failure to apply such public health requirements would constitute an arbitrary and capricious exercise of the agency's rulemaking authority and an abdication of the agency's responsibility to protect the public health.

As an initial matter, the purpose of the regulation to implement section 1016 is to prescribe such terms and conditions "that may be necessary to ensure food safety and to protect public health." There are two basic aspects of this mandate. First, what activity by the agency is necessary to ensure food safety and public health. Second, what terms and conditions will guarantee food safety and public health. Each of these aspects will be discussed in turn.

A. The Term "Ensure" Creates A Duty On Both The Agency And The Exempt Operation To Take Affirmative Action To Make Certain No Risk Is Posed.

1. *"Ensure food safety" imposes the highest standard.* In interpreting statutory language, the starting point is the plain meaning of the word. According to Webster's Dictionary, the

term "ensure" means "to make sure, certain, or safe: Guarantee." Hence, the word itself mandates the highest level of certainty.

The legislative history makes repeated references to "ensure" and the context of these references verify the high standard that Congress intended this term have. For example, the Senate manager of the bill noted the requirements of the section "were designed *to make certain* that a product exemption will not be granted where there will be substantial risks inherent in manufacturing the pizza for resale." Leahy at S. 18329, col. 2 (emphasis added); *see also* Wellstone, "the Secretary's duty to protect the public health [through terms and conditions] is, if anything, expanded in the case of an exemption from the requirements of daily inspection, * * * *" S. 18330, col. 2.; Congressman Weber, "the Secretary bears a substantial burden to develop terms and conditions so effective as to ensure food safety." H. 11366, col. 2. Indeed, the legislative history is very strong in addressing new risks to public health associated with this exemption. "In promulgating regulations to implement this provision, the Secretary shall prescribe whatever terms and conditions are necessary to ensure that no risk to food safety or public health arises (from this exemption)." Leahy at S. 18328, col. 2 (enclosures supplied); see also, Wellstone, H. 11368, Col. 1.

We note the FMIA only uses the term "ensure" in two other sections.[1] The first section, 401(e)(1), authorizes the Secretary to withdraw inspection to ensure the safety of inspectors who have been threatened or assaulted. Hence, in this section the Secretary, by being permitted to remove an inspector from a place of danger, would guarantee, beyond any doubt, the inspector's safety.

The second section, 20, requires the Secretary to ensure imported meat food products comply with residue standards. To meet this mandate, the Secretary shall "include the inspection of individual establishments to ensure that the inspection program of the foreign country involved is meeting such U.S. standards." There, the Secretary is required to take virtually every step necessary to verify compliance.

Hence, the term—through its plain meaning, Congressional intent, and prior use—evidences the highest standard.

2. *"Ensure" mandates affirmative action on the part of the agency.* Not only does the term "ensure" mandate a high standard, it also mandates affirmative action on the part of the Secretary. As noted above, when used in section 20 of the FMIA, dealing with imports, the term "ensure" is followed with a direction to the Secretary to take action, specifically dealing with imports, to affirmatively verify compliance with section 20 residue standard. Hence, by prior practice, Congress used the term when it wished to impose a duty on the Secretary to take affirmative action to guarantee compliance. Presumptions, without firsthand observations and knowledge, would not be sufficient.

The only occasion where "ensure" is used in similar FSIS rules and regulations is in FSIS Directive 5930.1, "Custom Exempt Establishment Review Procedures." [2] There, the agency sets forth how it will "ensure that each exempt operation complies with the provisions required of exempt operations contained in the Act and regulations." The FSIS "ensures" by actually viewing on a periodic, regular basis, each and every establishment operating under this exemption.

The importance of this Directive cannot be overstated. The custom exempt provision is found in the same section of the FMIA as section 1016. Further, the legislative history expressly analogized to the custom exempt requirements as the appropriate model for regulations under section 1016. Wellstone, S. 18330, col. 2; Weber, H. 11365, col. 3. The legislative history explicitly states that "the Secretary and those who are seeking an exemption have a burden of proof to ensure that the exemption does not threaten public health before it is granted." *Id.*, col. 1.[3]

Again, the plain meaning, prior use, and Congressional intent indicate that the term "ensure" mandates affirmative action, *i.e.*, on-site inspection.

3. *The term "ensure" places the burden on the operator to establish eligibility for an exemption.* Beyond the affirmative duty imposed on the Secretary to "ensure" public health and food safety, there is a burden on establishments seeking the exemption.

It is well-established that when a company seeks an exemption to a broad remedial statute, the company has the burden of establishing the right to the exemption. See e.g., *U.S.* v. *Allen Drug*, 357 F.2d 713 (10th Cir. 1966). (Court held Allen Drug had not met its burden of establishing eligibility for the exemption from premarket approval requirements for drugs imposed by the Federal Food, Drug, and Cosmetic Act.)

The FMIA and the PPIA are remedial statutes designed to protect the public health by requiring all meat food products are wholesome, unadulterated and not misbranded. See e.g., 21 U.S.C. 602; *Federation of Homemakers* v. *Harden*, 328 F. Supp. 181 (D.D.C. 1971) aff'd, 466 F.2d 462 (D.C. Cir. 1972). Finally, as previously cited, the legislative history makes clear that the exemption applicant bears the burden of proof. Wellstone at S. 18330, col. 1. Hence, the plain meaning of the statute, judicial precedent, and legislative history make clear that pizza manufacturers have the burden to show compliance with the statutory requirements and the terms and conditions imposed on the exemption.

B. Ensuring Food Safety And Public Health Requires Compliance With Sanitation, Processing, and Handling Requirements Applicable To Inspected Establishments.

1. *The risks inherent in pizza production involve sanitation, processing, and handling.* To establish controls to adequately ensure food safety and protect public health, it is necessary to identify the risks attendant with the processing of pizza using previously inspected and passed cooked/cured meat or poultry products and sold to eligible institutions.

The principal risk associated with cooked/cured products is microbiological agents. Meat and Poultry Inspection, National Research Council, pp. 31–33. The sources of this risk are: (1) Poor sanitation practices (discussed in subsection (a) below) and (2) temperature abuse during processing and handling (discussed in subsection (b) below).

(a) Sanitation Risks.

As FSIS has stated:

> There are a number of microorganisms which are destroyed when the meat or poultry is heat processed. However, if the heat processed [product] is contaminated with pathogenic microorganisms through *poor sanitation practices*, these products may become unsafe for human consumption and can lead to serious illness or even death of the consumer.

56 FR 40275 (Aug. 14, 1991) (emphasis added). *See also*, FSIS Sanitation Handbook at section 3.1.3.2. ("poor sanitation is a definite factor in increasing the likelihood of food poisoning outbreaks").

To control this risk to food safety and public health, FSIS mandates good sanitary practices. In simple terms, good

[1] The PPIA does not use the term "ensure" in any other section.

[2] This Directive applies to meat plants. However, the agency has given notice of its intent to apply this Directive to poultry establishments. 57 FR 3406 (Jan 29, 1992).

[3] Further, the entire legislative history speaks in terms of an exemption from "*daily* inspection." The consistent use of "daily" to modify inspection implies a Congressional expectation that some inspection would be periodically undertaken.

sanitation is a set of standards designed to reduce to a minimum the opportunity for microorganisms to gain entrance and multiply in food. Sanitation is not important for its own sake, the importance of sanitation is the protection of the product. Sanitation protects a product from being adulterated by its environment.

A critical category of potential sources of contamination is product contact surfaces, *e.g.*, equipment and tabletops. The presence of microorganisms on product contact surfaces will inevitably lead to contamination of product. Further, product contact surfaces can become a veritable breeding ground for microorganisms without proper sanitation. To eliminate this risk, the surfaces must be clean (look clean, feel clean, and smell clean), as well as being constructed of materials that are acceptable for contact with product, are designed for easy cleaning and capable of preventing deterioration.

Product may also be directly contaminated by contact with infected persons. To prevent this source of contamination, employment of diseased persons should be prohibited or limited to positions away from direct product contact.

Also of critical importance is the category of requirements regarding sanitation of the work area, *e.g.*, walls, floors, ceilings, etc., which could: (1) Potentially contact product (usually through accidental happenings) and (2) be a breeding ground for microbes or vermin that may come into contact with product via air currents or physical contact. Once again, this risk is controlled by requiring all surfaces to be adequately maintained, easily cleanable and kept clean.

(b) Processing and Handling Risks.

The National Research Council stated: "the major contributing factors to outbreaks of food-borne diseases in foodservice establishments and homes are leaving cooked foods at room temperature, storing cooked foods in large containers during refrigerated storage, and preparing food a day or more before serving." *Meat and Poultry Inspection* at page 34. To control these risks for pizza, virgorous and strong processing and handling requirements must be imposed; specifically: (1) mid-shift clean-up or adequate microbiological control and monitoring; (2) maximum time limits from preparation until consumption; (3) handling transportation and reheating temperatures; and (4) size requirements for shipping/handling packages.

2. *Controls must be rigorous given likely consumers.* The above risks are substantial and pose distinct public health concerns. This is especially true given the likely consumers of product produced under the section 1016 exemption. As FSIS itself has recognized: "Especially susceptible [to pathogenic microorganisms] are pregnant women, children, elderly, and individuals with compromised immune systems * * * *." 56 FR 40275 (Aug. 14, 1991). Eligible institutions covered by section 1016 would include institutions such as hospitals, which would service pregnant women and elderly and individuals with compromised immune systems, and the nation's school system, which would service children. Any risk analysis must take into account these likely consumers, therefore requiring imposition of controls no less rigorous than those designed to protect the public in general.

3. *Existing federal requirements are a minimal standard to protect against the risks identified above.* After the risks have been identified and the critical control points located, the next step is to specify what controls should be imposed so as to minimize/eliminate the risk. As discussed below, we respectfully submit those controls should be no less than those applied to inspected establishments.

a. *At A Minimum, Federal Requirements Should Apply.*

In determining what conditions to impose, perhaps the most appropriate starting point is the FMIA and the PPIA. As one court has noted: the purpose of the Inspection Acts is to guarantee a high level of cleanliness and safety in meat and poultry products. *United States* v. *Mullens*, 583 F.2d 134 (5th Cir. 1978). See also *G.A. Portello and Company* v. *Butz*, 345 F. Supp. 1204 (D.D.C. 1972) (the policy of the Inspection Acts is above all to protect health and welfare of consumers). In adopting the Inspection Acts, Congress expressly found: "It is essential in the public interest that the health and welfare of consumers be protected by assuring that meat and meat food products distributed to them are wholesome, not adulterated, and properly marked, labeled and packaged * * *. The unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged articles, to the detriment of consumers and the public generally." Section 2 of the FMIA, 21 U.S.C. 602; *Accord*, section 2 of the PPIA, 21 U.S.C. 451. Given that the Inspection Acts and their requirements are designed to protect public health and food safety, it seems that their requirements, other than daily inspection, would form the minimum requirements which should apply to exempt pizza processing.

This conclusion is reinforced by the legislative history. Every Member of Congress who addressed section 1016 made clear "the processing operation and products manufactured under such an exemption would still remain within the Secretary's authority and would be subject to the adulteration, misbranding, and other provisions of the FMIA or the PPIA, including storage, handling, processing, and facility requirements." Leahy at S. 18328, col. 3; Wellstone, S. 18330, col. 2; Weber, H. 11366, col. 1. Indeed, the Members of Congress immediately followed the above statements by noting "the Secretary has broad authority to impose additional requirements to ensure public health." *Id.* The term "additional" in these statements only makes sense if the Congress recognized that the FMIA/PPIA requirements are the minimum requirements from which the Secretary could impose more requirements.

There is still more support for this conclusion in the statute. Section 1016 amends section 23 of the FMIA and section 15 of the PPIA to exempt certain pizza processing from daily inspection. All previous exemptions in this section are limited to exemption from inspection only. Beyond application of the adulteration and misbranding provisions as required by section 23(d) of the FMIA and section 15(e) of the PPIA (as recodified); FSIS in its implementing regulations under these sections has applied all requirements, other than those requiring an inspector, to such exempt operations. 9 CFR 303.1 and 381.10. Indeed, the FSIS Directive on Custom Operations evidences the agency's belief that all FMIA requirements, including sanitation, must apply: "Sanitation procedures and maintenance of facilities during [operations] must be accomplished in a manner to *ensure* production of wholesome, unadulterated product." Directive 5930.1, at 5 (emphasis added).

Beyond these precedents, simple logic compels the conclusion that all the requirements of the Inspection Acts, other than daily inspection, must apply to exempt pizza operations. These requirements are designed to ensure public health. FSIS deems these requirements necessary, even with the daily presence of an inspector. It would be illogical to conclude that FSIS can "ensure food safety and protect public health" in the absence of an inspector while waiving sanitation requirements that are necessary in the presence of an inspector. Such patent inconsistencies in

the application of public health requirements would constitute an arbitrary and capricious exercise of the agency's rulemaking discretion.

b. *Specific Sanitation Requirements.*

As itemized above, the risk of microbiological contamination can be controlled through sound and consistent sanitary practices. FSIS has stated that its "sanitary requirements for equipment and facilities [are] one means of ensuring proper sanitation. These requirements are a primary reason for the high level of sanitation routinely practiced in federally inspected meat and poultry establishments." FSIS Accepted Meat and Poultry Equipment, at page 1.

At a minimum, the following controls should be imposed so as to control risks:

(i) Cleanliness of Operation.

The operation and procedures should be in accordance with clean and sanitary methods. This requirement is found in 9 CFR 308.8(a) (meat) and 381.47(a) (poultry).

(ii) Cleanliness of Plant and Equipment Generally.

Rooms, compartments, equipment, and utensils used in preparing, storing or otherwise handling product shall be kept clean and sanitary. This requirement is found at 9 CFR 308.7 (meat) and 381.57–58 (poultry).

(iii) Sanitary Design of Equipment.

To "facilitate keeping equipment clean, thereby controlling and preferably eliminating product contamination," the equipment should have a sanitary design. Sanitation Handbook at 16.3.1. This requirement is found in 9 CFR 308.5 (meat) and 381.53 (poultry).

(iv) Sanitary Design of Facility.

"Floors, walls, ceilings in the plant should be constructed to be easy to clean and should be kept clean and in good repair." Sanitation Handbook at 8.1.3. Such surfaces should be waterproof to [eliminate breeding grounds] of contaminants such as bacteria. *Id.* at 28.2.16. This requirement is found in 9 CFR 308.3(e) (meat) and 381.48 (poultry).

There should be adequate lighting; "contaminants cannot be easily removed if they cannot be seen." Sanitation Handbook at 9.1.0. This requirement is found in 9 CFR 308.3(b) (meat) and 381.52(a) (poultry).

There should be "adequate and properly designed ventilating facilities in equipment [since these are] related to good plant sanitation." Sanitation Handbook at 10.1.0. This requirement is found in 9 CFR 308.3(b) (meat) and 381.52(a) (poultry).

There should be plumbing requirements since "if plumbing isn't properly installed or maintained, a variety of public health hazards * * * may occur." Sanitation Handbook, 1.0. This requirement is found in 9 CFR 308.3(c) (meat) and 381.50 (a)–(b) (poultry). Also, potable water should be required since it is of "primary importance in sanitation programs." Sanitation Handbook at 13.1.0. This requirment is found in 9 CFR 308.3(d)(1) (meat) and 381.50(e) (poultry).

(v) Outer Premises.

Outer premises should be kept clean given "there are some real potential sanitation hazards as a direct result of housekeeping practices on the outside premises." Sanitation Handbook at 7.4.0. This requirement is imposed in 9 CFR 308.13.

(vi) Rodent and Insect Control.

Likewise, there should be insect controls given insects and rodents are capable of transmitting diseases to man by contamination of food and food contact surfaces. Sanitation Handbook at 19.2.0. This requirement is imposed in 9 CFR 308.3(h) (meat) and 381.59 (poultry).

(vii) Employment of Diseased Persons.

Since diseased persons can contaminate the food, they should not be permitted to contact food. This requirment is found at 9 CFR 308.14 (meat) and 381.61 (poultry).

(viii) Training of Employees.

We respectfully submit that food safety will not be "ensured" even if FSIS establishes requirements for adequate sanitation and verifies compliance when an exemption is granted. Good sanitation is an everyday affair. As FSIS has recognized: "Good sanitation is no accident. It must be planned and become an integral part of the plant's operation." Sanitation Handbook, 2.4.7. Making sanitation a part of a plant's operation requires training of employees. "It is plant management's responsibility to see that all involved employees, both old and new, receive adequate training in proper sanitary handling of product and other sanitation procedures." *Id.*at 4.4.1. To be eligible for an exemption, a responsibility is also placed on the company to establish that it meets the terms and conditions to "ensure food safety." Given the importance of sanitation "to ensure food safety," we resepectfully submit that such a burden cannot be met without the training of employees on proper sanitary practices.

(ix) Eligible Institution Training of Employees.

Training in safe food handling practices should not be limited to employees at the pizza company, it must include training or supervision of the eligible institution's employees. Beyond the reasons applicable to the pizza company's employees, the legislative history provided that it is Congress' expectation that "such institutions will operate under supervision that assures that food handling and sanitation practices protect public health, such as direct supervision of a registered dietician [or a trained staff]." Leahy at S. 18329, col. 2; Weber at H. 11366, col. 2. This requirement could be met either by training the entire staff so it can operate on its own or adding an individual to the staff to supervise proper food handling techniques.

As discussed above, handling of safe product can reintroduce risks of contamination. Accordingly, controls must be in place at an eligible institution, especially in light of the susceptibility of the institution's consumers to microbiological contaminants.

C. Processing and Handling Requirements.

As noted above, improper processing is the other major contributing factor to food borne disease. NRC Meat and Poultry Inspection at 34. FSIS itself has recognized the importance of proper processing and handling to ensure food safety. "The Agency believes that the two chief causes of public health hazards in cooked ready-to-eat products are underprocessing and cross contamination." 56 FR 40276. Obviously, use of ready-to-eat previously inspected and passed products should eliminate the first concern, but cross contamination is a concern present in the exempt operation. Nor is the risk of cross contamination totally eliminated with proper pre-operational sanitation and sanitary facilities. During processing, there are continued opportunities for cross contamination. For example, to prevent build up on product contact surfaces, FSIS requires that each operation conduct a mid-shift clean-up in all locations handling cooked product. MPI Manual § 8.55. Further, employees handling heat-processed products should be required to wash and sanitize their hands whenever they enter or reenter the heat-processed product areas and after contacting possibly contaminated non-product zone areas or materials, *e.g.*, outer surfaces of cartons to prevent contamination, trash or inedible containers, maintenance tools or equipment, etc. FSIS Directive 11,000.2, Plant Sanitation, Chapter XI, section B–3.

Employees handling heat-processed products should be attired in clean outer work garments at the start of each shift, and further, they are required to change

their outer work garments if they contact unclean objects or materials, if they become excessively soiled with product residue, or they wear their outer work garments into areas away from the heat-processing activity such as restrooms, storage rooms, maintenance department or the cafeteria areas used by other employees *e.g.*, maintenance, housekeeping, etc. FSIS Directive 11520.2, Exposed Heat-Processed Product: Employee Dress.

Beyond these types of requirements, proper handling temperatures of heat-processed product are essential to prevent food safety risks. As the agency has stated: "FSIS has been concerned with the cooling of heat-processed products. Cooling guidelines were issued by FSIS * * * to help prevent the outgrowth of surviving pathogenic organisms or those unintentionally added to the product after the heat treatment." 53 FR 52183–84. FSIS recognizes, "as safe practices," those procedures listed in Time/Temperature Guidelines For Cooling Heated Products issued under FSIS Directive 7110.3. FSIS strongly recommends that, to avoid product adulteration, processors of refrigerated products should rapidly and continuously cool heat-processed products such as pizza to 40°F for reheating and serving or, for fresh products, maintain its temperature above 140°F until served. FSIS will also entertain "other handling procedures," provided they are proven to avoid product adulteration and approved by FSIS. For refrigerated and frozen products, provided the product temperature has been reduced as recommended and then immediately frozen or reheated and served, there is diminished likelihood of public health risks. However, "fresh pizzas" which have not been chilled/frozen after cooking, pose a substantial risk unless they can be distributed and consumed within the recommended time limits. These handling risks are further heightened if the temperature for the processing area is kept at ambient levels or above. Additionally, some log or other mechanism must be employed so that an exempt facility monitors these limits not only with regard to processing but with distribution as well.

Even when a product leaves the facility the risk of cross contamination/improper handling continues, and especially so if fresh pizzas are distributed. To eliminate this risk, petitioners' recommend imposition of the current requirements applicable to transportation incorporated in 9 CFR 325.1(c) and 381.190(c).

D. Ensuring Food Safety And Public Health Requires Compliance With Labeling Requirements Applicable To Inspected Establishments.

Beyond the microbiological risks discussed above, pizzas, like any other food product, pose a risk to those individuals who suffer allergic reactions from consuming certain substances. The agency has stated in the past:

> FSIS's paramount concern is public health. Many individuals suffer allergic reactions from eating certain * * * substances. [If not apprised of such ingredients] consumers who are sensitive ingest these ingredients without knowledge of their presence, discovering their presence only after suffering an allergic response * * * FSIS is aware and concerned about the potential severity of such allergic reactions. Label designation of these * * * ingredients by their common or usual names is essential to reduce the likelihood of consumers ingesting them unknowingly.

55 FR at 7291 (March 1, 1990).

That is why meat and poultry products have always been fully labeled with ingredients. Indeed, FSIS has instituted over three dozen Class II recalls in the past five years for undeclared ingredients. A Class II recall "involves a potential health hazard situation where there is a remote probability of serious, adverse health consequences from the use of the product." FSIS Directive 8080.1, Rev. 1, at 3.

Even if a consumer at the eligible institution does not see the label itself, it should be available so that the personnel can respond to questions. FSIS has always required an ingredient statement on product manufactured for institutional use.

Moreover, because not all meat-topped pizza manufacturers would enjoy the subject exemption, the legislative history notes compelling economic rationale in addition to the public safety concerns in the express references to labeling requirements. "The Secretary is expected to assure that manufacturers of exempt products comply with labeling requirements. Failure to require adherence to such labeling requirements would result in an unlevel playing field for competitors and institutional customers who increasingly rely on product labeling." Leahy at S. 18329, Col. 2–3; Weber, H. 11366, Col. 3. Indeed, Congress anticipates the Secretary would "promptly exercise his or her discretionary authority to refuse or withdraw an exemption from inspection in any case where an exempt facility manufactures for resale products that fail to comply with relevant labeling requirements." *Id.* See also section 2 of the FMIA, 21 U.S.C. 602 ("the unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with the wholesome * * * and properly labeled * * * articles, to the detriment of consumers and the public generally").

In addition, we respectfully direct the agency's attention to the plain language of section 23 of the FMIA and section 15 of the PPIA. The pizza exemption amended section 23 of the FMIA by including the pizza provision as subsection (c). Section 1016 also redesignates current subsection (c) as subsection (d). Likewise, section 1016 amended section 15 of the PPIA to include a new subsection (d) and redesignated old (d) as (e). The redesignated subsections both expressly provide: "the adulteration and misbranding provisions of this subchapter, other than the requirement of the inspection legend, shall apply to articles which are exempt from inspection are not required to be inspected under this section."

Section 1(n) of the FMIA and section 4(h) of the PPIA specify when a product is "misbranded." The sections, in relevant part, provide that a product is misbranded and, hence, in violation of the Inspection Acts: (1) If it is in a package or other container unless there is a label showing the name and place of business of the manufacturer and an accurate statement of net weight; (2) if it purports to be a food which its standard of identity has been established (as is the case with pizza) unless it conforms to such standard and its label bears the common names of optional ingredients; (3) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservatives, unless it bears labeling stating this fact; and (4) if it "fails to bear, directly thereon or on its container, such other information as the Secretary may require in regulations to assure it will not be false or misleading and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition."

Beyond the mandatory requirements imposed above, we respectfully suggest the following additional statement should appear on the label:

> Not produced under USDA inspection: For sale and use at supervised public or private nonprofit institutions only.

This language is necessary to ensure the product will not be diverted for sale to non-eligible customers.

The exemption granted by section 1016 is quite narrow. It is for pizzas produced for sale at eligible institutions. Failure to include this labeling

requirement invites diversions. Indeed, such a statement will protect the exempt facility should the products be illegally sold. Further, such language will greatly assist FSIS in monitoring compliance. Similar notice is also required for other products manufactured under section 23 of the FMIA and section 15 of the PPIA.

The placement of section 1016 in section 23 of the FMIA compels FSIS to impose all labeling requirements on pizzas produced under the exemption. Anything less would be an illegal abdication of the agency's responsibility.

II. Petitioners' Proposed Regulation

At the outset, petitioners' regulation articulates the three criteria for an exemption specified in the statute.

The first requirement is that the product only contain meat food products or poultry products inspected and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of the FMIA or PPIA.

The second requirement is that the pizzas produced under the exemption are to be served at eligible institutions, (e)(1)(ii). Subsection (e)(2) defines this term as nonprofit public or private institutions. Additionally, as discussed above, the regulation requires that the institution have either a registered dietician or a trained staff. The institution should provide documentation regarding staff training to an exempt facility to guarantee compliance with this requirement.

The third requirement is that an applicant for inspection receive an affirmative determination by the Secretary that inspection is not necessary at that facility to ensure food safety or protect public health. This requirement is essential to meet the Secretary's affirmative duty to ensure food safety and protect public health. Accordingly, petitioners' proposed subsection (e)(1)(iii), (3) and (4), calls upon an establishment wishing to be exempted to file an application with the Administrator.

To assist in reviewing the application, and to give guidance to those facilities that make applications, subsection (e)(4) itemizes the basic requirements that should be met.

Paragraph (4)(i) cross-references the applicable sections of the sanitation regulations found in part 308 (meat) and section 381, subpart H (poultry) to provide for sanitary processing conditions.

Paragraph (4)(ii) cross-references the applicable handling and processing requirements from part 318 (meat) and section 381, subpart O (poultry) to provide for safe practices and the packaging requirements of section 317.24 (meat) and section 381.144 (poultry).

Paragraph (4)(iii) cross-references applicable labeling requirements, including net weight compliance, ingredient disclosure and the standards of identity. It also includes a mandatory statement to ensure distribution is consistent with the limits on the exemption. The importance of requiring compliance with applicable labeling regulations to protect consumers cannot be overstated. Beyond this, compliance with standards of identity are essential to ensure a level playing field between inspected and non-inspected establishments. See section 2 of the FMIA, 21 U.S.C. 602 (meat), section 2 of the PPIA, 21 U.S.C. 451 (poultry).

Paragraph (4)(iv) cross-references recordkeeping requirements found in part 320 (meat) and section 381, subpart Q (poultry) to provide FSIS with accurate information on the total operation and help ensure the exempt facility is complying with the terms of the exemption.

Paragraph 4(v) requires all exempt facilities have an ongoing training program for employees on proper food handling and sanitation practices. Documentation of such training will be a required record. Paragraph (4)(vi) reserves to the Administrator authority to impose any additional requirements the Administrator may determine are necessary in specific cases.

The review procedure for the application is set forth in subsection (e)(5) of the regulation. In addition, the operator's appeal procedures, in the event of a denial of an application or withdrawal of exemption, are specified. In drafting this subsection, petitioners relied upon existing regulations governing termination of the quality control program, found in 9 CFR 318.4(g)(2)(ii) (meat) and 381.145(g)(2)(ii) (poultry).

The requirements governing transportation and handling are found in subsection (6) of petitioners' proposed regulation. These requirements are based on FSIS transportation regulations found at 9 CFR 325.1(c) (meat) and 381.190(c) (poultry). In addition, since the time in distribution can affect safety, paragraphs (6) (iii)–(v) establish safe time limits on processing. For frozen and refrigerated products, the product's internal temperature must be reduced to within these parameters following cooking. For ready-to-eat pizzas, the time between preparation and consumption is determined according to how the product's temperature is maintained. These limits are based on how long a product can be in distribution before contamination due to temperature abuse could occur.

Paragraph (e)(7) requires the exempt facility file quarterly reports and such other reports as required by the Administrator. These reporting requirements mirror the requirements applicable to inspected establishments.

Finally, paragraph (e)(8) requires the exempt facility to file an annual certification with the Administrator that it has complied with the requirements for exemption, including verifying it sold product only to institutions meeting the requirements of (e)(2).

Conclusion

The regulation proposed by petitioners' herein provides for timely, efficient and effective implementation of section 1016 of Public Law 102–237. Prompt action on the petition will enable the Department to meet the ambitious August 1, 1992 implementation time frame established by section 1016. The regulation is efficient in that it meets the Secretary's statutory requirement to ensure food safety and protect public health with minimal regulatory burden on regulated industry. The regulatory requirements proposed herein are carefully tailored to pizza processing activities and justified by food safety imperatives. Furthermore, the proposed regulation is efficient in its preservation of precious agency resources. Onsite time expenditure of agency personnel is held to a bare minimum and, at every possible opportunity, existing standards were employed to avoid expenditure of agency time associated with development and implementation of new standards.

Most important, the petitioners' proposed regulation is effective in prescribing practical requirements to provide for reasonable activities to ensure food safety for products served to the vulnerable population of nonprofit institutions. We respectfully request prompt initiation of the rulemaking petitioned for herein.

Respectfully Submitted,

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H.R. 2763/P.L. 102-285

National Geologic Mapping Act of 1992. (May 18, 1992; 106 Stat. 166; 7 pages) Price: $1.00

H.R. 4184/P.L. 102-286

To designate the Department of Veterans Affairs Medical Center located in Northampton, Massachusetts, as the "Edward P. Boland Department of Veterans Affairs Medical Center". (May 18, 1992; 106 Stat. 173; 1 page) Price: $1.00

H.J. Res. 466/P.L. 102-287

Designating April 26, 1992, through May 2, 1992, as "National Crime Victims' Rights Week". (May 18, 1992; 106 Stat. 174; 1 page) Price: $1.00

H.J. Res. 388/P.L. 102-288

Designating the month of May 1992, as "National Foster Care Month". (May 19, 1992; 106 Stat. 175; 1 page) Price: $1.00

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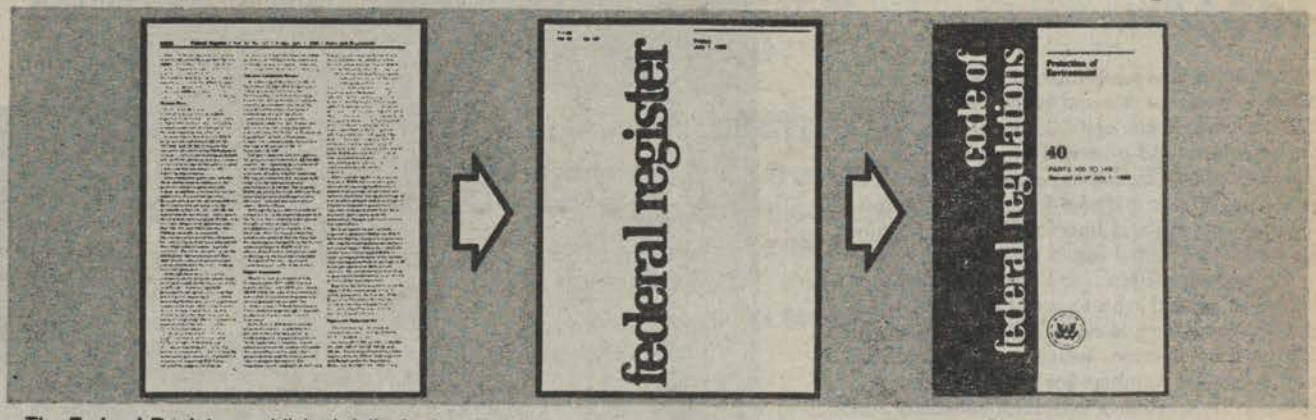

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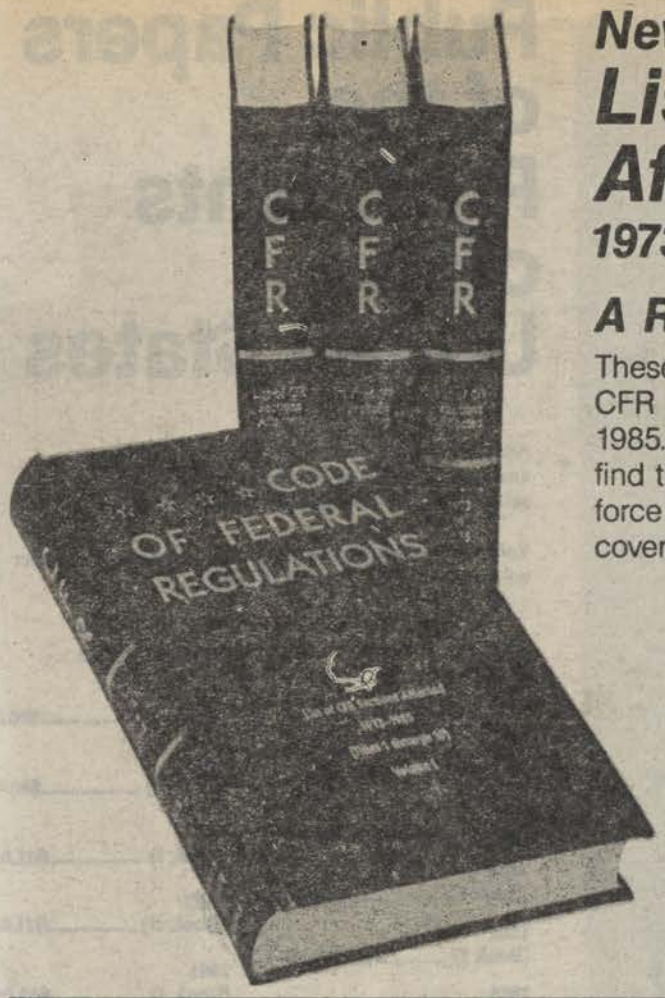

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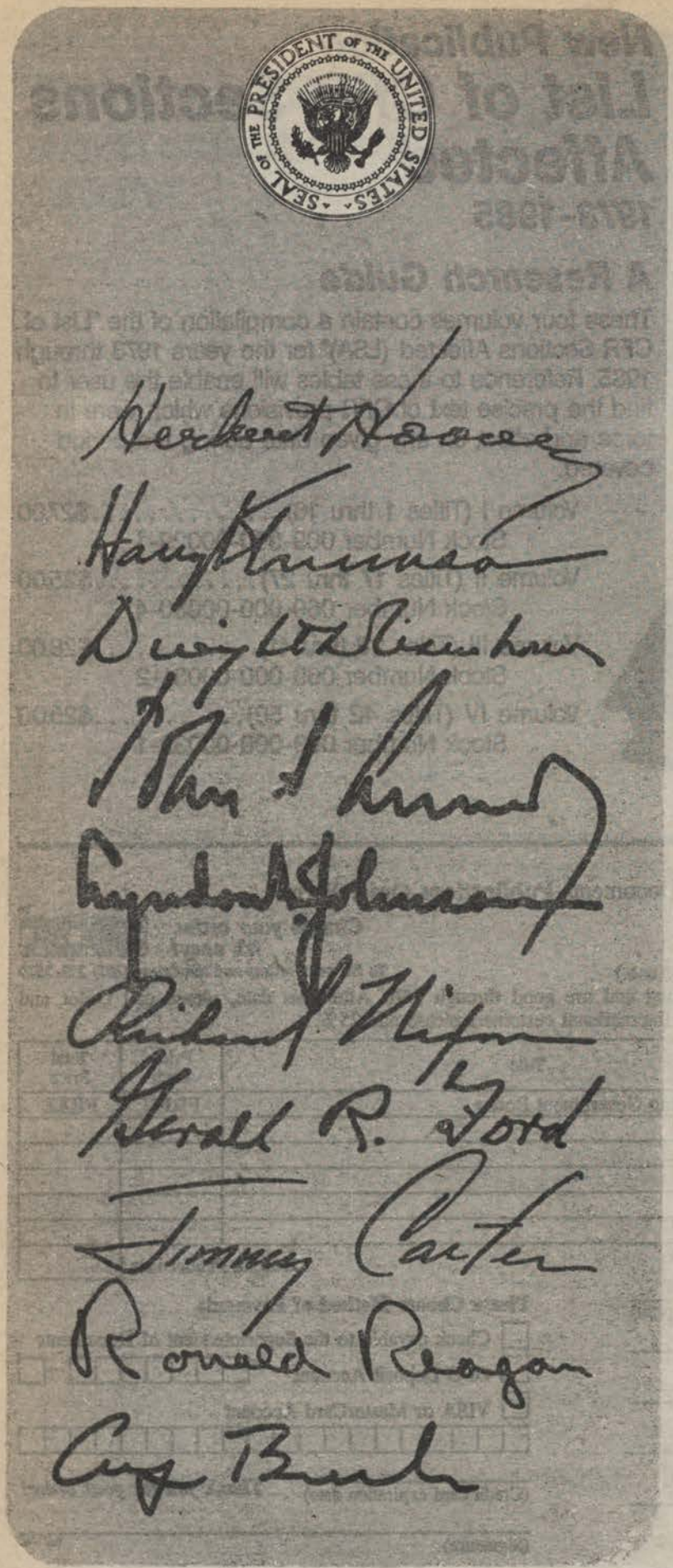

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